Capability Policy and Procedure

Policy Statement

Rodborough Tabernacle United Reformed Church ("the Church") requires a good standard of performance from its employees in order to protect the proper operation of the Church and the health and safety of all.

The Church will manage performance issues which concern an employee's capability to do his/her job by using the Capability procedure below.

Capability problems may be outside the employee's direct control and can be symptomatic of underlying work problems or other personal issues. The Church will treat all capability issues with care and sensitivity in a fair, supportive and consistent way.

The formal procedure will only be instigated where improvement in performance has not been demonstrated or sustained through the informal stage, or where serious issues of capability are raised that make an informal approach inappropriate. The formal procedure is designed to ensure that all staff are treated fairly and consistently and that high standards of performance are maintained.

This procedure concerns matters of capability. Concerns about matters of misconduct should be addressed using the Disciplinary Procedure. Managers need to make a judgement about whether a situation is a capability or a disciplinary issue. Care should be taken to distinguish between the two.

Where time limits are specified in this Policy and Procedure, they may be varied by agreement between the Church and the employee.

The Capability Policy and Procedure does not form part of the contract of employment.

Purpose

The purpose of the Capability Policy and Procedure is to:

- determine whether the employee is capable or can be made capable of doing his/her job to the required standard; and
- ensure that any concerns about an employee's capability are handled in a fair, consistent and timely manner,

- with the aim of understanding why the employee's performance falls short of the required standard in order to take appropriate action so that the required standard can be met.

Scope

This policy applies to employees based at Rodborough Tabernacle URC, Tabernacle Walk, Rodborough GL5 3UJ.

It does not apply to individuals who occupy roles as stipendiary ministers of word and sacraments.

Capability Procedure

Definitions

For the purposes of this procedure 'Capability' is defined by the Employment Rights Act (1996) as:

- 'Capability assessed by reference to skill, aptitude, health or any other physical or mental quality'. (Where it is a fundamental requirement for the role, loss of qualifications may also be considered under this heading.)
- Where an employee's performance is affected by a disability the employer is required to make "reasonable" adjustments.
- Under the Equality Act 2010 you are regarded as disabled if you have a physical or mental impairment that has a 'substantial' and 'long-term' negative effect on your ability to do normal daily activities; the following meanings apply:
- 'substantial' is more than minor or trivial – e.g. it takes much longer than it usually would to complete a daily task like getting dressed; and
- 'long-term' means 12 months or more – e.g. a breathing condition that develops as a result of a lung infection.

Informal Stage

The Church will initially try to resolve poor performance issues informally by way of an informal discussion with the employee concerned.

This is a two-way discussion where the employee's line manager will be able to make sure that the employee is aware of his/her shortcomings in performance and to seek to find out why.

The main purpose of the informal discussion is to understand the cause of the shortcomings and to find a way to bring performance to the required standard.

The manager will agree a performance improvement plan with the employee, to include:

- details of the performance gap;
- any possible causes that have been identified;

- details of the improvement required in performance;
- a time scale for this improvement;
- support to be given and any training and development required; and
- frequency of monitoring and a date for the next review meeting.

The employee will be advised that failure to improve could lead to the formal stage being started.

The manager will keep a note of the discussion and the notes and performance improvement plan will be given to the employee. These will be used as the basis for the monitoring and review of progress in accordance with the agreed timetable.

The informal stage will usually last between 1 and 3 months and should be proportionate to the issues identified. The duration should be long enough to give the employee a reasonable opportunity to make the required improvements but should not delay the start of formal action if so required.

Generally, cases of poor performance are dealt with informally. However, if the informal stage does not result in improved performance, then the formal capability procedure will be followed.

Formal Stage

Where there has been insufficient improvement as a result of the informal stage, the formal stage will be started.

The Church will write to the employee, giving him/her a minimum of seven days' notice of a formal capability review meeting. The written letter will inform him/her that this constitutes the start of the formal capability procedure and will include:

- an outline the poor performance and notification that a failure to improve may lead to dismissal;
- details of the previous informal review process and any other relevant information which will be brought to the formal capability meeting;
- the time and venue of the formal meeting; and
- notice of the employee's right to be accompanied by a trade union representative or a work colleague.

The employee's companion is there to provide moral support to the employee and generally will not address the meeting or answer questions on the employee's behalf.

If the employee is unable to attend the formal Capability meeting at the agreed time, the Church shall offer an alternative reasonable time and date. The Church shall give at least seven days' notice of any rearranged meeting. Failure to attend any formal Capability meeting without good reason may lead to Disciplinary action being started.

First Formal Meeting

The manager will outline the performance problem(s).

The manager will explain the gap between actual performance and the expected standard and why the current level of performance is unacceptable.

The activities and results of the informal stage will be discussed.

The employee will be given an opportunity to explain why levels of performance have not met the expected standard.

Any further support and training will be planned and targets will be set and agreed.

The date for a further review meeting will be agreed. The date should be mutually agreed and must be long enough for any training to have had effect and for the employee to have demonstrated a sustained improvement; generally 1 to 3 months.

The employee will be advised that failure to improve will lead to further action and may lead to dismissal on the grounds of capability. (Possible alternatives to dismissal, e.g. demotion, may be discussed, if applicable.)

The manager will keep a note of the discussion and the notes and improvement plan will be given to the employee. These will be used as the basis for the monitoring and review of progress in accordance with the agreed timetable.

Second and /or Final Formal Meeting

The purpose of this meeting is to determine whether the required improvement has been achieved.

The date, time and place of the meeting will be notified in writing to the employee and will generally be in accordance with the time table agreed in the first formal meeting.

The employee is entitled to be accompanied by a work colleague or a trade union representative.

The plans and targets agreed in the first formal meeting will be reviewed.

The manager will form a view as to whether:

- the required improvement has been achieved; or
- some improvement has been achieved, but not sufficient; or
- the required standard has not been and is unlikely to be achieved within a reasonable time frame.

Where the required standard has been achieved the employee will be notified of this fact and no further formal action will be taken. The manager will however monitor performance regularly.

Where there has not been an acceptable level of improvement after periods of informal and formal review, the employee will be informed that his/her employment will be terminated on grounds of capability.

Alternative actions may be considered if they are reasonably practicable (although there is no obligation to do so). These might include:

- demotion without pay protection; or
- an alternative role.

In exceptional circumstances, if some improvement has been made and there is a reasonable expectation that the employee could achieve the required standard, a further review period may be put in place. This will be arranged and documented per the Formal Stage and First Formal Stage sections of this procedure.

The outcome of Second Formal Capability Meeting will be notified to the employee in writing.

Right of Appeal

Employees have the right to appeal against the outcome of any Formal Capability Meeting. The appeal should be made in writing within 14 working days of a written record of the meeting.

The employee must inform the Church, in writing, as to the grounds for the appeal. The employee may appeal on the grounds of:

- inappropriate use of the Capability Procedure (i.e. this was not a capability issue); or
- the procedure not being followed correctly; or
- unreasonable targets/ timescales set within an action plan; or
- an unreasonable outcome e.g. demotion / dismissal.

The line manager will submit a statement of case outlining the facts and circumstances in relation to the poor performance.

The Church will hear the appeal without unreasonable delay. The appeal will be heard by an individual not previously involved. The employee may be accompanied by a work colleague or trade union representative.

The outcome of the appeal will be confirmed in writing within 14 days of the appeal meeting. Decisions made at this stage will be final and there is no further right of appeal.

An employee who has been dismissed as a result of a capability meeting ceases to be an employee from the date on which the dismissal takes effect, irrespective of whether or not an appeal against the dismissal has been lodged.

Records

Capability matters will be handled with as high a degree of confidentiality as is practicable, particularly where the issues are of a sensitive nature.

Copies of performance improvement plans and meeting notes will be filed in the employee's personal file and will generally be treated as "expired" 12 months after

the date of last meeting or correspondence, whichever is the later, provided the employee has sustained the required standards of performance.

If a pattern of similar underperformance develops shortly after the "expiry" of a review period, the records may be borne in mind in deciding at what stage (informal/formal) any subsequent Capability activity commences and the length of any subsequent review period.

Related Policies

At any stage of the procedure, the manager may come to the reasonable opinion that the matter being dealt with would be more appropriately dealt with under a different Policy/Procedure, e.g.: Disciplinary, Sickness Absence.

This opinion may come as a result of a better understanding of the facts, the behaviour of the employee or his/her failure to co-operate with the Capability Procedure.

The manager should seek advice before changing procedure or notifying the employee of any such change.

Policy Owner

Any queries regarding this policy should be addressed to the Church Secretary.

Policy Approved by

This policy was approved for use by Rodborough Tabernacle URC on 5 June 2024 and signed by the Church Secretary.

Policy Review

This policy will be reviewed after 36 months.