

## **Capability**

### **Principles**

Springboard Opportunity Group places great importance on maintaining levels of performance at an acceptable standard and the capability procedure provides a fair and objective process to enable the organisation to ensure that those standards are met in every aspect of our operations. The Leadership team will oversee staff performance, in consultation with the Trustees.

For the purpose of this procedure 'capability' is defined as:

*"Where a member of staff is failing in a significant or persistent way to carry out their responsibilities or duties in a satisfactory manner, either due to a lack of ability, inadequate training, lack of experience, or showing lack of professional development. Such failings will be identified by use of the following procedures and steps taken to improve performance. Where such steps prove unsuccessful the member of staff may have their employment terminated on the grounds of incapacity".*

### **Aims**

This policy aims to:

- set out a means of monitoring performance and establishing performance criteria;
- offer a degree of consistency in how staff with widely differing responsibilities and duties are given opportunities to attain satisfactory levels of performance;
- offer assistance in identifying the most appropriate form(s) of support and providing that support;
- ensure that if a member of staff fails to overcome their difficulties, any consequent action will be based on:
  - adequate evidence that the member of staff is incapable of performing their duties satisfactorily.
  - a fair procedure.

The fact that the member of staff was given all reasonable assistance to overcome such failings.

### **Procedure:**

This procedure applies only to members of staff where there is serious underperformance which the appraisal and/or supervisions process has been unable to address.

### **Stage 1 - Informal Procedure**

Where an employee of the organisation exhibits an inability to perform their duties satisfactorily, the organisation will attempt to resolve the matter informally via a meeting between the manager and the member of staff. The nature and date of the meeting will be recorded and a letter sent to the member of staff indicating the nature of their unsatisfactory performance and how such performance can be improved to the satisfaction of their manager. The member of staff should be informed that they may be accompanied at any meetings by a trade union representative, work colleague or another person. At this meeting, the manager will agree performance standards with the member of staff, and a time period (appropriate to the circumstances) over which improvement will be expected. They will also agree how the individual's performance will be monitored. If the individual's performance improves adequately

over the timescale, then the process will terminate at this stage. If performance remains unsatisfactory, then the formal procedure will be invoked by the manager as set out in Stage 2.

## **Stage 2 - Formal Procedure - Information Collection**

The manager may call on the support of another member of staff to undertake collecting necessary information. They would be expected to interview the member of staff concerned and any other appropriate individuals. The member of staff should be informed that they may be accompanied at any meetings by a trade union representative, work colleague or another person. A written report based on evidence gained e.g. by interviews and observation of performance will be prepared by the delegated member of staff. The report should be precise and specific in the observations and comments it makes and shall contain clear information on:

1. areas where the member of staff is failing to perform adequately;
2. actions already taken by the organisation to address these failings and whether these actions were adequate - i.e. were clear performance standards set and monitored;
3. whether the member of staff acknowledges a problem and shows a willingness to improve;
4. the impact of the individual's failings on colleagues and work output; and
5. any other mitigating factors.

The report should be given to the member of staff concerned and to the manager. Both may record in writing any comments on the observations contained within the report. The manager will consider the report, and may opt to take one of the following options:

- no further action;
- set reasonable performance standards for the individual and monitor these for a set period of time in a timescale that is reasonable given the nature and impact of the capability concerns and the support identified for improvement;
- convene a formal capability meeting to consider the matter further.

## **Stage 3 - Capability Meeting**

The manager will write to the member of staff informing them of the date of the meeting, attaching any relevant documentation. The letter shall contain:

- the performance deficits in sufficient detail to ensure that the member of staff fully comprehends their nature, extent and seriousness;
- the time, date and venue of the interview;
- the person who will conduct the interview;
- a statement that all employees have the right to be accompanied by a trade union representative, work colleague or another person at any interview or meeting held under the provision of these procedures; and
- at least 48 hours' notice.

At the meeting, the member of staff will be given the opportunity to put forward a defence, to bring witnesses in support of their defence, to present mitigating circumstances and to make a full statement. A written copy of the procedure to be adhered to during the meeting should be made available to the member of staff before the meeting takes place. If the allegation is found to be justified, then a decision on the action to be taken must be made. Depending on the nature, frequency and seriousness of the allegation(s) it is expected that at this stage a warning will be given and this will be confirmed in writing. A letter should be sent to the member of staff confirming the decision and the reason(s) why it was made. The letter will also indicate that the member of staff's progress will continue to be monitored and

how this will be carried out. A time scale for performance to improve and a review date(s) will be specified. If the failings are found to be not sufficiently serious to warrant a formal warning or where there are mitigating circumstances, then monitoring should be discontinued subject to a clear indication to the member of staff that it may be reintroduced if the problem(s) reappear.

#### **Stage 4 - Second Capability Meeting**

If poor performance continues, the process set out in stage 3 should be repeated. The time scale for improvement will depend on the nature of the duties and responsibilities of the employee concerned and the seriousness of the complaint(s). If the conclusion of the second meeting is that performance has not sufficiently improved and that there is still evidence of incapability despite support and prior warnings, a final warning should be issued. The letter confirming the decision as well as covering the points made at Stage 3, should clearly state that if an improvement is not forthcoming, the manager will convene a final meeting. This meeting will consider terminating the contract of the member of staff involved on the grounds of capability.

#### **Stage 5 - Third Capability Meeting:**

The manager will conduct the third meeting at which if previous advice, training and warnings have not had the desired effect, they will terminate the contract of the employee concerned. The procedures outlined in Stage 3 will be followed.

#### **Appeals**

An appeal against any decision to terminate the employee's contract of employment on the grounds of capability may be made in writing to the Chair of Trustees within 14 days of the decision. The employee's appeal will be heard by the appropriate Trustees. Decisions made on appeal shall be final.

## **Disciplinary**

#### **Principles**

This policy and procedure is designed to support the effective operation of Springboard Opportunity Group and to help and encourage all employees to achieve and maintain standards of conduct, attendance and job performance as described in the staff handbook, induction process and appraisal / supervision meetings. The policy is designed to be non-discriminatory and will be applied consistently and fairly to all employees. Matters relating to disciplinary issues must be treated as confidential. All matters will be resolved as quickly and effectively as possible and informal action will be considered, where appropriate, to resolve minor problems.

No disciplinary action will be taken against an employee until the case has been fully investigated.

If formal action is taken, the employee will be advised of the nature of the complaint against them and will be given the opportunity to state their case before any decision is made at a disciplinary meeting.

#### **Aims**

This policy aims that:

- Employees will be provided, where appropriate, with written copies of evidence and relevant witness statements in advance of a disciplinary meeting.
- At all stages of the procedure, the employee will have the right to be accompanied by a trade union representative, work colleague or friend. Employees should make a reasonable request to exercise this right. If the employee is accompanied, their companion will be allowed to address the meeting (with the employee's permission) but not to answer questions on the worker's behalf.
- Each stage of the process should be held without unreasonable delay but allowing sufficient time for each party to prepare their case.

- Everyone involved should make the best effort to attend.
- If either side intends to call witnesses, they should give advance notice they intend to do this
- Each stage of the process will be managed by a manager or Trustee not previously involved in the procedure
- Each stage will be noted and a copy of all documents will be given to the employee and one copy kept on the personal file
- No employee will be dismissed for a first breach of discipline except in the case of gross misconduct, when the penalty will be dismissal without notice or payment in lieu of notice
- An employee will have the right to appeal against any disciplinary action.
- The procedure may be implemented at any stage if the employee's alleged misconduct warrants this.

**Procedure:**

**Stage 1 Informal**

If appropriate, an informal meeting will be held to try to resolve the issue.

Minor breaches of organisational discipline or misconduct e.g. improper use of telephones, email and social media, time keeping, personal appearance, improper use of Springboard facilities, failure to respect others including users, colleagues and visitors, will result in an informal discussion with a line manager to rectify the situation. This may result in an informal warning which may be supported by appropriate training and / or supervision.

It is expected that in most cases this procedure will quickly resolve most difficulties. Where there is a more serious case of misconduct or an employee fails to improve and maintain that improvement with regard to conduct or job performance, the following steps will be taken:

**Stage 2 Formal**

- The employer will put their reasons for the disciplinary procedure in writing to the employee together with such evidence as may exist
- A formal disciplinary meeting will be arranged at a mutually convenient time between the employer and employee in order to establish the facts and determine future action
- Both parties will have the opportunity to respectfully express their views. Both parties are expected to listen openly and respectfully to each other.
- Full notes of the meeting will be taken
- The meeting will be conducted by a panel involving up to three Trustees
- The employee will subsequently be informed of the employer's decision and of their right to appeal

Possible decisions include:

- No further action
- A first formal warning for misconduct – this will be in writing, set out the nature of the misconduct, the change required and timescale, and note the right to appeal. It may also state that a final written warning may be considered if there is no sustained change or improvement.

**Stage 3 formal**

After the timescale identified at Stage 2 a further disciplinary meeting will be held, as at stage 2. Possible decisions include :

- Sustained change and improvement has occurred. No further action. The record will be kept on the employee's personal file but will be disregarded for disciplinary purposes after 12 months.

- A final warning, which if unheeded will result in a further disciplinary meeting– this will be in writing, set out the nature of the misconduct, the change required and timescale, and will note the right to appeal. It will also warn that failure to improve may lead to dismissal.

#### **Stage 4 formal**

A final disciplinary meeting will be held, as at stage 2 and 3 . Possible outcomes include :

- Sustained change and improvement has occurred. No further action. The record will be kept on the employee’s personal file but will be disregarded for disciplinary purposes after 12 months.
- Demotion or transfer to another role within the organisation
- Suspension with full pay from duties for up to seven days
- Dismissal with appropriate notice. The employee will be provided in writing with reasons for dismissal, the date on which the employment will terminate and the right of appeal.

The final decision to dismiss can only be taken by the Chair of Trustees and Personnel Sub-Committee after they are satisfied with regard to the facts of the case, the appropriateness of mitigating circumstances and after interviewing the employee concerned.

If some sanction short of dismissal is imposed, the employee will receive details of the matter, will be warned that dismissal could result if there is no satisfactory improvement, and will be advised of the right of appeal.

An appeal, in writing, may be made to the chair of the Board of Trustees, on each decision and should be made within 10 working days of the employee being notified of the decision.

An appeal meeting will be arranged at a mutually convenient time and will be heard by a manager or trustee not previously involved in this process.

#### **Gross Misconduct:**

The above process will not apply in the case of action which is in fundamental breach of contract. The injured party is entitled to treat the contract as at an immediate end, thus incurring no liability for notice. Such action might take the form of action which is classified in disciplinary rules as gross misconduct, for instance:

- Theft or fraud
- Ill treatment of children
- Assault
- Serious bullying or harassment
- Serious insubordination
- Serious failure to comply with policies, procedures and legal requirements that safeguard children;
- Bringing the organisation into serious disrepute
- Malicious damage
- Gross carelessness which threatens the health and safety of others
- Deliberate damage to property
- Being unfit through use of drugs or alcohol
- Serious breach of Springboard Policies.

- Discriminatory behaviour relating to sexual orientation, race, gender, disability, religion or belief
- Unauthorised deliberate access to confidential information held by the organization, either electronic or manual. Unauthorised disclosure of confidential material.

This is not an exhaustive list

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| <b>This policy was adopted at a meeting of Springboard Opportunity Group's Board of Trustees</b> |                   |
| <b>Held on</b>   | <b>15.03.21</b>   |
| <b>Signed on behalf of the Board of Trustees</b>   |                   |
| <b>Name of signatory</b>   |                   |
| <b>Role of signatory</b>   |                   |
| <b>Date to be reviewed</b>   | <b>March 2024</b> |