

# Capability Policy

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## 1. Policy Purpose

Pabulum as a company is committed to supporting all employees in achieving and maintaining the highest standards of performance, to enable us to provide “as many children and students as possible with a hot healthy, nutritious meal and to deliver excellent customer service” and in instances where there is a shortfall in meeting these standards, to address them in a timely, fair and supportive manner.

Most performance issues can be resolved through co-operation and clear communication between the employee and their line manager, and this informal approach to addressing performance concerns is encouraged. However, it is also recognised that there are occasions when performance may not meet the expected standards and a more formal process is required. This policy provides a framework in which this can be formally managed in a way that ensures that everyone is treated fairly and consistently.

This policy applies to all employees of Pabulum Limited, although it is important to note that a different approach may be adopted when dealing with employees within their probationary period, and this is set out in our separate guidance on the management of probation.

This policy does not form part of an employee’s terms and conditions of employment and may be subject to change at the discretion of the management.

## 2. Responsibilities

**2.1 Employees** - All employees are responsible for ensuring they are familiar with this policy and comply with all the company’s policies, procedures, established practices and reasonable management requests. Employees should ensure understanding of their role; responsibilities and the standards of performance expected from them and make every effort to perform these to the highest standards achievable. Employees should proactively and constructively engage in dialogue with their line manager about any barriers to high performance, or ideas and suggestions for the improvement of service or food quality.

**2.2 Managers** - Managers are responsible for ensuring that all employees for whom they are responsible, are aware of and understand what is expected of them, and that this is communicated in terms of clear and measurable objectives and targets with regard to output, quality standards and behaviours. This clarity should be provided via the induction process with proper sign off, regularly reviewing the employee’s training card and ensuring standard operating procedures are followed, which can all be communicated and discussed through ongoing dialogue between manager and colleague. Managers should monitor standards of performance and achievement of objectives and should provide regular and constructive feedback to each employee. Where performance falls below expectations, managers should provide early feedback, explore reasons, and provide guidance and support. Managers are responsible for reading and following this policy and invoking it in the event of informal support failing to result in required standards. Managers may seek advice from the People Team where necessary, but in any event are required to notify them of all formal capability proceedings.

**2.3 The People (HR) Team** - The People Team is responsible for the provision of professional advice and support to enable the operation of this policy in a fair, consistent, and timely manner and to help facilitate early and effective resolution of performance issues where possible. You can contact the People Team on [HR@pabulum-catering.co.uk](mailto:HR@pabulum-catering.co.uk)

## 3. General Principles

If an employee is subject to formal action under the Capability Policy, the following principles will apply:

- Each stage of this policy will be undertaken without unreasonable delay, to ensure that the risks and impacts of under-performance are minimised, but this will be balanced with the principle of reasonable opportunity to improve.
- Each formal stage will result in a clear written explanation of the standards of improvement and the support measures agreed.

- The policy provides a sequential framework for addressing performance capability concerns, however, it can be invoked at any stage, and the timeframes for improvement can be fast tracked, if the circumstances justify it.
- No employee will normally be immediately dismissed for under-performance without first having the opportunity to improve to the required standard, except in extreme cases where the actual or potential consequences of an employee's poor performance are, or could be, extremely serious.
- At each formal stage, managers will provide an update to their nominated Business Partner within the People Team.

This policy will not normally be applicable where employees are unable to achieve targets or objectives due to health or attendance issues, or due to conduct, negligence, repeated carelessness or a deliberate unwillingness to co-operate with any training or development. The approach to managing such cases is set out in the company's policy relating to Sickness Absence Management and the Disciplinary Procedure. However, at times the reasons for conduct or performance concerns are not immediately apparent, so action initiated under one policy may move into an appropriate stage of an alternative policy as the facts and circumstances emerge. Additionally, there may be cases where there is an underlying health condition affecting performance, but this does not result in absence, in which case this policy will apply, but will be combined with appropriate health-management measures outlined in the Sickness Absence Policy, such as referral to Occupational Health.

#### 4. Summary of Stages for addressing capability concerns

The following stages are outlined in summary. For more detailed information on how to implement these stages, managers should refer to their nominated Business Partner for guidance, who can also provide accompanying toolkit documents for support.

In instances where employees are required to have a more detailed understanding of procedural requirements, information will be confirmed to them by the manager involved. It is expected that each stage will not normally last for more than three weeks and will be monitored regularly throughout this period. After the three-week period, a review will be undertaken to determine the next appropriate action. The three-week duration at each stage may be extended in exceptional and justifiable circumstances.

##### 4.1 Informal stage

In the first instance, performance concerns should be addressed informally with the employee by their line manager. This is part of day-to-day management and should assist in the prevention of more serious problems and the avoidance of formal action. An informal meeting of this nature will normally include the following:

- Explaining to the employee the cause for concern.
- Explore with the employee any reasons and causes for the shortfall.
- If it is considered that a health condition may be a contributing factor, consideration should be given to referral to Occupational Health.
- Setting out the way forward, with the responsibilities of the employee identified and/or any further training or support to be provided.
- Clarification of the timescale over which the improvement must be achieved and maintained, and the monitoring arrangements during his period. The timescale will not normally exceed 3 weeks duration.
- A clear Performance Improvement Plan (PIP) and outcome measures should be recorded and provided to the employee, templates for this can be provided by the People Team.

Following the review period set at the informal stage, the line manager will assess whether or not there has been sufficient improvement, gathering any evidence necessary to make this judgement. If there has not been sufficient improvement, the line manager will write to the employee, informing them that they are subject to the formal Capability Policy and inviting them to attend a first formal stage meeting. The invitation to the meeting will include written details of the performance concerns, together with a summary of the action and discussions that have been taken to date.

## 4.2 First formal stage

The first formal stage of the procedure will be appropriate where performance issues have continued following any informal action taken, or where the performance issues are potentially too serious to be dealt with by way of informal action. This will normally continue to be managed by the line manager, but in certain circumstances may require progression to a more senior manager within the management line.

The format of a first formal stage meeting will be broadly the same as is outlined above in the informal stage and will provide the opportunity for the employee to formally respond to the performance concerns. Following a first formal stage meeting, the manager will confirm in writing the issue of a written warning, which will advise of the potential consequences for a further failure to achieve and sustain the required standards of performance. A written warning issued under this Policy will normally remain live, for the purposes of escalation, for a period of twelve months, although may be longer, or subject to extension, in justifiable circumstances. Along with this an up-to-date Performance Improvement Plan should be issued to the colleague including timeframes for the next review period, as well as an outcome letter summarising the first formal meeting. It should be noted that the timescale determined for achieving improvement will not normally exceed three-weeks duration, unless there are extenuating and justifiable circumstances as to why a longer period is required and is therefore shorter than the duration of the warning, to reflect the difference between achieving required levels of performance and sustaining them over time.

The manager will assess progress throughout the review period and ensure that they have accurate and up-to-date information and evidence regarding progress by the end of it. Upon reaching the end of the review period, the manager will assess whether or not there has been sufficient improvement, gathering any evidence necessary to make this judgement. If there has not been sufficient improvement, the manager will write to the employee, informing them that action under the Capability Policy is being escalated to the second formal stage. The invitation to the second formal stage meeting will include written details of progress against the Performance Improvement Plan (PIP) and a summary of the continuing performance concerns, together with the actions and discussions that have been taken to date.

## 4.3 Second formal stage

At the second formal stage, the case will still be reviewed, assessed and chaired by the colleague's line manager. The manager will assess progress throughout the review period and upon reaching the end of the review period will evaluate the Performance Improvement Plan, and ensure that they have accurate and up-to-date information and evidence regarding progress by the end of it.

Within the Second Formal Meeting, the line manager will review the Performance Improvement Plan and will ask the employee to respond. As with previous meetings, there will be exploration of potential causes and possible interventions. In most cases, the manager will determine a further time period for improvement, which will not normally exceed three weeks duration, unless there are extenuating and justifiable circumstances as to why a longer period is required and will re-issue the Performance Improvement Plan (PIP), detailing the outcomes of the meeting and any actions or interventions agreed. This will be accompanied by the issue of a final written warning to the employee, advising them that a failure to achieve and sustain the required level of improvement may result in their dismissal. A final written warning issued under this Policy will normally remain live, for the purposes of escalation, for a period of twelve months, although may be longer, or subject to extension, in justifiable circumstances. It should be noted that the timescale determined for achieving improvement is shorter than the duration of

the warning, to reflect the difference between achieving required levels of performance and sustaining them over time.

Throughout this review period, following the second formal Capability Meeting, the line manager will assess progress throughout the review period and ensure that they have accurate and up-to-date information and evidence regarding progress by the end of it. Upon reaching the end of the review period, the line manager will assess whether or not there has been sufficient improvement, gathering any evidence necessary to make this judgement. The line manager will report this progress in writing to a more senior manager (in most cases) for the third formal meeting (Capability Hearing). If there has not been sufficient improvement, the newly appointed manager will write to the employee, informing them that action under the Capability Policy is being escalated to the third formal stage. The invitation to the third formal stage meeting will include written details of progress against the PIP and a summary of the continuing performance concerns, together with the actions and discussions that have been taken to date. In accordance with the final written warning already issued, the employee will be reminded in writing that a potential outcome from the third formal stage meeting is the termination of their employment.

#### 4.4 Final formal stage

The third formal stage meeting (Capability Hearing) will be referred and chaired by an alternative manager, normally a more senior manager within the employee's management line, and this manager must have delegated authority to make a dismissal decision. At the review meeting, the line manager will be invited to outline the performance concerns, progress against the PIP and all actions to date and the employee will be invited to formally respond. Following adjournment to consider all the evidence and the submissions and responses provided, the manager chairing the meeting will confirm whether the employee has shown sufficient improvement. If this is the case, formal action may cease and the situation will revert to normal management and monitoring of performance, however, the warning will remain live for its defined duration.

In instances where there has not been sufficient improvement, the manager may exceptionally agree a further review period (only in cases where there are reasonable grounds for believing that further time will enable improvement), may consider redeployment options, or may confirm with the employee that their employment is to be terminated. In instances of dismissal under this policy, the company reserves the right to make payment in lieu of notice, unless the employee's performance has been so negligent as to amount to gross misconduct, in which case they may be dismissed without notice, or any payment in lieu of notice (see Disciplinary Procedure).

### 5. Procedural Points

- At any stage during this process, the manager may determine that further investigation into issues raised is required and may adjourn a formal meeting in order to gather more information.
- Each stage of this process should not normally last more than 3 weeks unless there are justifiable reasons for extension.
- If at any time, an issue relating to health or potential disability is raised, the manager should seek the advice of the People Team and Occupational Health.
- It may be appropriate to consider redeployment at any stage if it is considered that there are fundamental features of the employee's role that they are likely to remain incapable of undertaking. This may be at a lower grade, without any protection to existing terms and remuneration. However, redeployment should only be considered where it is agreed that the employee has transferable skills that render them suitable for making a valued contribution in another role.
- Whilst an employee is under formal proceedings in accordance with this Policy, this may be taken into consideration should the employee apply for an alternative job internally. Additionally, it may be subject to disclosure if a reference is requested from the company by a prospective employer.
- Whilst under formal proceedings in accordance with this Policy, any annual increment or bonus that may have otherwise been payable may be withheld at the company's discretion.

## 6. Appeals

If an employee has been dismissed under this policy, they have a right to appeal. The appeal should be made in writing, in accordance with the instructions detailed in the outcome letter, within 7 calendar days of the date of the outcome letter. If an employee wishes to appeal, their appeal letter should include the following points where relevant:

- Why you feel the original decision was not a logical and reasonable response to the facts presented.
- Why you find the outcome or action unfair.
- How the Capability Procedure was not followed, and how this affected the outcome.

Appeals will be heard by an appropriate senior manager who has not been involved in the original process and may also be supported by a member of the People Team.

### 6.1 Appeal Outcome

Following an Appeal Hearing, the Appeal Manager may:

- confirm the original decision.
- revoke the original decision.
- substitute a different outcome.

The decision of the Appeal Manager is final and will generally be communicated to the employee in writing within 5 calendar days of the appeal meeting, although this may not always be possible. If further time is required to notify the employee of the outcome, the Appeal Manager will keep the employee informed in writing as to progress and when a decision is likely to be issued.

## 7. The right to be accompanied

Employees involved in capability proceedings are encouraged to seek advice and support at any stage, including informal stages if needed, however the formal right to be accompanied applies at the formal stages only. Employees who are invited to attend a formal meeting under this policy are entitled to be accompanied by an accredited full-time trade union official, a representative of a recognised trade union (who is an employee of the company), or a work colleague employed by the company. This does not, however, apply to informal stages, normal supervisory meetings or performance management meetings, or meetings taking place within formal stage review periods to check and assess progress. If the right to be accompanied applies, employees will be notified of this in writing. Any request to be accompanied must be reasonable and the choice of companion should not contribute to any unreasonable delays in proceedings.

## 8. Raising a grievance during formal capability action

If a grievance is received during the course of the formal stages of this policy which relates to the performance issue, the Grievance Manager may decide to:

- Continue with the Capability process and consider the points raised in the grievance as part of the employee's explanation within that process.
- Or temporarily suspend the Capability process, only by exception and subject to risk assessment, for a period until the grievance has been considered.
- Where the grievance is unrelated to the performance issue, it will be considered completely separately and will not impact on the Capability process.

## 9. Employees with requirements

If any employee involved in a Capability process has requirements due to a personal protected characteristic, such as related to disability or language, the company will endeavour to make reasonable adjustments to enable participation within this process without detriment or disadvantage. This is in addition to adjustments that may be considered to support them in fulfilling their role and reaching the required standard of performance.

## 10. Record keeping and confidentiality

Pabulum will keep written and electronic records relating to performance management action and proceedings, on employee files and via centralised case management systems. Records will be treated as confidential and kept no longer than necessary in accordance with the Data Protection Act. Only those colleagues and external advisors connected to the matter (which may include, for example, managers, representatives and those acting in an advisory capacity e.g. the People Team, any relevant regulatory body etc.) will be advised of the details of performance management cases on a 'need to know' basis and judgements regarding either, full, partial or non-disclosure of meeting notes, witness statements and other information will be at the discretion of the managers acting on behalf of the company. Employees involved in performance proceedings, in any capacity, are also required to exercise confidentiality. This does not prevent the company from disclosing certain confidential information and/or reports to third parties including future employers and others where it is appropriate to do so.

## 11. Monitoring and learning from capability matters

The use of this policy will be monitored by the Head of People to ensure that it operates fairly and efficiently. The company will also monitor the nature of performance issues to facilitate learning in relation to trends and themes that may suggest that other procedures, practices or working conditions may require review.

## 12. Review

This policy will be monitored and periodically reviewed, in line with legislation and good practice, and any amendment to it will be emailed to all employees of the company.

**Nelson Williams**  
**Managing Director**

*(This policy will be reviewed in October 2022)*

## Appendix A – Performance Improvement Plan Template

### Pabulum Performance Improvement Plan

Employee Name:	
Line Manager Name:	
Date PIP agreed:	
Agreed review date (not exceeding 4 weeks):	
<p>What is the area of improvement?</p> <p>How will the improvement be achieved?</p> <p>What support will be provided? (If applicable)</p> <p>What will success look like and how will it be measured including timescales?</p>	
Any further actions agreed by either the manager or the employee:	

By signing this Performance Improvement Plan, you agree that the above improvements are required to your performance and these improvements must be sustained. You also understand that if you fail to achieve the above improvements, further action may be taken in accordance with the relevant policy.

Signed by Employee:	
Date:	

The employee's level of performance will be formally reviewed on ..... to consider whether they have achieved the required level of improvement. The employee's performance will be reviewed on an ongoing basis during this time and any further performance or conduct issues may be dealt with in accordance with the relevant policy.

Signed by Line Manager:	
Date:	