



0207 Capability Procedure

ORDER NO. 2/7

WEST MIDLANDS FIRE SERVICE

CAPABILITY PROCEDURE

1. STRATEGY

It is the intention of the West Midlands Fire Service (WMFS) to make sure that all employees achieve and sustain a high standard of performance in their work.

WMFS will also make sure that all employees are given the opportunity, support and encouragement to improve their performance when they fall below the required standard normally expected.

This procedure applies to all employees, however, the Chief Fire Officer and SET will be managed through the normal rules as stated in the 'Gold' book. Employees in their probationary period will also be managed under this policy however, consideration to timescales will need to be given. Grey book employees have a 3 year development which is in line with their contract of employment.

2. PROCEDURES

Capability is an assessment of an employee's performance when compared with expected standards as defined by role profiles, role maps, contracts of employment and IPDR. Capability is assessed by the employee's ability to carry out their responsibilities or duties in a satisfactory manner.

The procedure seeks to:

- help employees to improve their performance wherever possible;
- provide a fair and consistent means of managing capability issues;
- provide a way of solving capability issues where improvement in the current role is not possible.

Where performance shortfalls have been identified, the following procedure is used to support the employee to improve their performance. In circumstances where a satisfactory improvement in performance is not reached and maintained, the employee may have their employment ended on the grounds of capability.

The Capability Procedure is used where there is a genuine lack of capability. A deliberate

failure on the part of the employee to perform to the standards expected of them is a conduct matter and is dealt with under the Disciplinary Procedure.

3. REGULAR ONE TO ONES

All employees should receive regular one to ones with their line manager as part of their development, these can be anything from daily discussions or monthly meetings. The benefits of having regular one to ones are that you are likely to see quick, positive results as an outcome.

This is because coaching is participative and employees tend to learn and adopt new habits more easily when they are engaged in the learning process. Below you will find other benefits of regular one to ones:

- improvement in employees' performance, targets and goals.
- increased openness to personal learning and development.
- greater ownership and responsibility.
- greater clarity in roles and objectives.
- the opportunity to correct behaviour/performance difficulties in a timely manner.

4. RESPONSIBILITIES OF THE EMPLOYEES

Employees have a contractual responsibility to perform to a satisfactory standard and will be given support and encouragement to do so. These responsibilities also include:

- taking part in Individual Performance Development Review (IPDR) meetings;
- taking part in training and other measures that help maintain and improve performance;
- raising any training needs with a manager and;
- asking if something is unclear.

5. RESPONSIBILITIES OF THE MANAGERS

Managers must take a proactive approach on the situation and may identify performance shortfalls at very early stages. This shortfall may not be a drastic fall in performance, it might only be a slight drop and it is the manager's responsibility to address this at the early stages and try to prevent performance becoming poor.

Managers should be setting realistic targets through Individual Personal Development Review (IPDRs) and making sure that the employee understands the standards of performance expected.

Line managers have a responsibility to supervise and manage the allocation of work and to monitor the performance. Managers may identify areas of unsatisfactory or poor performance and create plans with the employee to improve these areas; they should also identify areas of good performance and give recognition for this.

Performance standards will be determined by targets set by managers and the Service and supplemented by the individual role maps, the occupational standards or the role profile.

6. CAPABILITY PROCESS

6.1 Informal stage – assistance, advice and guidance

It is normal practice for employees to be made aware of any matters of concern on a day-to-day basis. The aim should be to offer positive advice, assistance, and guidance to help the employee overcome any issues of capability.

All employees should have regular one to ones; this is crucial where performance shortfalls are identified. The employee's overall performance should be discussed and shortfalls should be identified, the line manager and the employee must identify ways to address any performance issues. Should improvement not be achieved then the line manager will continue to manage the employee in line with the capability process ensuring that an appropriate improvement plan and support are in place for the individual.

6.2 Formal procedure

When an employee is not achieving an acceptable standard of performance, despite having been given informal guidance and assistance, the manager will arrange a formal meeting giving at least seven days' notice.

The employee should be provided information to confirm what actions have already been undertaken to address any short fall in performance and why it is believed that performance has not improved to the required standard.

Throughout the formal procedures, advice should be sought from the People Support Services Business Partners where appropriate. At this stage a formal written improvement plan and time scales are agreed and issued, this plan will be recorded on HRMS Manager and Employee self-service.

Further details can be found in appendix 1 and 2 manager and employee guidelines.

Formal meeting

At this meeting targets for improvement are set and a record is kept on the employee's personal record file. A reasonable timescale for improvement is set.

The employee should be given at least 7 days' notice for this meeting, this should be done in writing.

The employee has the right to representation whether this is a trade union representative body or a work colleague.

A copy of the policy and an overview of the policy is provided as the employee to confirm the process followed.

The manager conducting this meeting must provide the outcome in writing within 5 working days.

6.3 Formal review meeting

If the desired improvement has not been achieved following the formal meeting stage, a further meeting is arranged where the employee is informed of the continued areas of underperformance and the consequences of this. Again, a reasonable timescale for improvement is set, the length of which is determined by the individual circumstances. The employee is informed that if they do not improve or maintain improvement they may be dismissed.

At this stage a final written improvement plan is issued. This is recorded on HRMS Manager and Employee self-service.

6.4 Final resolution

If the desired improvement has still not been achieved a meeting will be conducted with the line manager, a senior manager, People Support Services Business Partner, the employee and their representative. The senior manager makes a decision as to the likelihood of the employee's performance reaching an acceptable standard. Consideration must be given to redeployment opportunities. If there is no improvement, there are no suitable alternative positions available or the employee declines redeployment, the decision may be taken to dismiss the employee. However, in exceptional circumstances a further improvement plan may be issued.

7. APPEAL PROCESS

Employees have a right of appeal against the decisions taken under this policy, this can only be done through the appeal process.

The appeal will usually be heard by a more senior manager, where this is not practical it will be heard by a manager who has authority to review and change the original decision.

8. RIGHT TO BE ACCOMPANIED

At all stages of the formal procedure, an employee is entitled to be accompanied by a work colleague or trade union/representative body representative.

9. RECORDING AND MONITORING

All notes and copies of correspondence in relation to an employee's performance through the capability procedure are kept on their personal record file and on HRMS. The Recording Template, found on the HRMS Manager and Employee self-service should be used for recording all information during the process.

- formal meeting stage – duration of 6 months
- formal review stage – duration of 1 year
- final resolution stage – duration of 18 months

The employee will continue to be supported and reviewed on a regular basis through normal supervision and IPDR meetings. The timescales above will be reviewed for employees in their probationary period.

10. CROSS REFERENCES

5/1 Attendance Management Policy 0501 Attendance Management Policy

2/1 Disciplinary Procedure 0201 Disciplinary Procedure

2/2 Grievance Procedure 0202 Grievance Procedure

11. KEY CONSULTEES

Joint Consultative Committee

Joint Working Party

Operations

Fire Brigades' Union

Fire Officers' Association

UNISON

12. EQUALITY AND DIVERSITY IMPACT ASSESSMENT

An Equality Impact Assessment has been completed.

13. OWNERSHIP

Strategic Enabler People

14. RESPONSIBILITY AND REVIEW/AMENDMENT DETAILS

14.1 Responsible Strategic Enabling Team Member

Strategic Enabler People

14.2 Created/fully reviewed/amended

October 2018 amended by People Support Services

If you have followed any of the processes included in this Policy please complete the following debrief form by clicking [here](#)

Appendix 1

GUIDANCE FOR MANAGERS

1. Acceptable standards of performance

Managers should raise any shortfalls in performance at the early stages and should support the performance improvement plans and allow time for improvement.

Managers need to set realistic targets through Individual Performance Development Reviews (IPDR) and make sure that the employee understands the standards of performance or what is

expected of them. These standards are determined by the relevant role map/profile.

As a manager, you are expected to understand these standards of performance and set appropriate targets, conduct regular one to ones and through the action planning process, monitor performance.

Throughout this process where appropriate you should seek advice from the People Support Services Business Partner and use the guidance documents for any recording on HRMS.

The line manager is present at each stage, but a senior manager will attend the formal review and final resolution meetings. The senior manager must be at a suitable level of authority to complete the capability procedure and the subsequent appeals stage for an employee.

Stage	Management level	Appeal
Informal	Line manager, which must be at least watch commander or equivalent	Continue within Capability procedure
Formal Meeting	Line manager, which must be at least watch commander or equivalent	Continue within Capability procedure
Formal Review Meeting	Line manager and first level of seniority above line manager, which must be at least station commander or equivalent	Continue within Capability procedure
Final Resolution	Line manager and second level of seniority above line manager (at least area commander or equivalent), supported by a PSS.	Appeal to corporate level higher than the final resolution manager, supported by a different Business Partner than was involved in the previous stage

2. **Conduct rather than capability**

If at any stage during this process, you have reason to believe under-performance is due to unsatisfactory conduct on the part of the individual, you should consider dealing with the matter through the disciplinary procedure.

For clarity the difference between conduct and capability is:

capability is 'can't do'

conduct is 'won't do'

3. **Informal assistance**

As a result of your day to day supervision and management of employees, you may become aware of employees who are not achieving an acceptable standard of performance. From this initial observation you should discuss your concerns with the employee in a suitable location and time, try to identify the reasons for their underperformance to find a solution, which should involve positive advice, assistance and guidance.

You need to establish the facts and gather information to make sure you understand what the problems are. You must highlight the short falls, agree a way forward, monitor the situation and arrange to meet with them again. These conversations can be delivered as part of their one to one/coaching session. An Individual Performance Development Review (IPDR) may be a helpful management tool at this stage.

All stages of the procedure should be handled in a helpful and considerate manner; a consistent approach should be adopted in resolving performance issues.

These initial discussions and meetings may raise a number of issues such as:

- the employee may not be aware of the standards of work performance expected of them
- the standards set may not reasonably be attained
- the standards may have changed and the individual may not be aware of them
- a genuine lack of capability that may have been present for some time
- under performance may have come about more recently because of, for example, changing job content, personal factors such as work life balance or the individual's health.

Every effort should be made at this stage to prevent the situation progressing to the formal procedure.

Following the initial meeting you should send confirmation to the employee detailing the agreement reached and should include the following:

- reason for the informal discussion.
- summary of discussion.
- acknowledgement of the meeting and an opportunity for the employee to respond.
- action plan through a personal improvement plan including the assistance offered, clear measurable targets to be achieved and the desired standard of performance.
- any relevant training, coaching, mentoring retraining or development actions discussed and agreed upon.
- the consequences of failure to improve may be that the formal procedure may be initiated.

- reasonable time limits and review date (length depends upon individual circumstances).

If the required improvement has been made within the review period, the employee should be advised of and encouraged to maintain the improvement. The employee will continue to be supported and reviewed on a regular basis through normal supervision and IPDR meetings.

4. **Formal procedure**

If, following informal assistance, the employee is still unable to achieve an acceptable level of performance consideration should be given to initiating the formal process, the first stage of which is the formal meeting.

You are required to give at least seven days' notice of the date and time of all meetings within the formal procedure and the employee has the right to be accompanied, if they wish, by a work colleague, trade union representative at all stages of the formal procedure.

4.1 **Formal meeting**

The initial meeting

The purpose of the meeting is:

- to set out clear and specific details outlining the issues with performance levels.
- to discuss and agree what improvements are required, making sure that these are clearly explained.
- to set the time frame for the improvements required.
- to inform the employee of the possible consequences of not meeting these required standards that this can lead to a final resolution meeting.

You must make sure that the employee is given an opportunity to respond to the points raised and explain any difficulties they may be experiencing. The employee must be involved in these discussions and that of this meeting the manager should set out the objectives that will help with the improvement plan.

A reasonable timescale for improvement is set, the length of which is to be determined by the individual circumstances with appropriate managerial monitoring during that time.

There are a number of ways in which you will be able to provide help and support to achieve the desired improvements these may include the following.

Assistance for performance

- Arranging training and development, internal and/or external
- Arranging for the employee to work under supervision from a line manager or appropriate colleague, who is competent and experienced in the work duties and requirements, for an agreed specified time period
- Arranging a change in duties for the employee, either permanently or for a trial period
- Arranging an assessment of capability (this may include literacy testing)
- Redeployment

The conclusions from this meeting must be formally recorded in writing as well as recorded on HRMS and a copy given to the employee within 7 days of the meeting. The following information should be included in the letter:

- the reason for conducting the formal discussion
- a summary of the discussion
- acknowledgement of the meeting and an opportunity for the employee to respond
- action plan through a personal improvement plan including the assistance offered, clear measurable targets to be achieved, and the desired standard of performance
- the length of the monitoring period and review date
- the consequences of failure to improve

This formal letter must be accompanied by a formal written improvement plan accessed on HRMS. The standard layout and format for these can be found in the accompanying guidance documents found on the MESH.

Review of initial formal meeting

The initial Formal Review meeting is followed up with a letter to the individual setting out:

- that the employee is not meeting an acceptable level of performance;
- the expected improvement;
- the reasonable timescale for achieving it;
- any further help which will be provided;
- any agreed changes to the employment contract; and

- that a failure to achieve the improvement within the timescale may put their future employment at risk.

This formal letter must be accompanied by an updated and final formal written improvement plan. The standard layout and format for these can be found in the accompanying guidance documents found on MESH.

After the monitoring period has elapsed a review meeting should be conducted to decide the outcome. At this meeting one of two options should be considered:

1. the desired outcome has been achieved and the process does not need to be escalated
2. the desired outcome has not been achieved and the process needs to be escalated

If the desired improvement has been achieved at the end of the monitoring period, this is recorded in the employee's personal record file. The employee should continue to be supported and reviewed on a regular basis through normal supervision and IPDR meetings.

If, following the agreed period of time, the acceptable standard of performance has not been achieved, the next stage of the formal process will be initiated, which is the Formal Review Meeting.

4.2 Formal review meeting

The purpose of this meeting is to restate the continued areas of underperformance, to discuss whether the remedial measures previously identified should continue, or if additional measures might be helpful.

This stage should take the same format as the initial formal meeting stage, giving at least seven days' notice of the date, time and the right to be accompanied, assistance and monitoring then a review meeting.

If, following the agreed period of time, the individual has still not achieved an acceptable standard the final stage of the formal process is initiated, which is the final resolution.

Following this stage, a further letter and plan will be provided to the employee.

4.3 Final resolution

If the desired improvement has not been achieved, you should discuss the situation further with People Support Services Business Partner and a senior manager who will offer further advice and support.

A meeting is held, giving seven days' notice, and the senior manager will make a decision, with support and advice from People Support Services Business Partner, as to whether there is any likelihood of the employee improving their performance to an acceptable level. The employee has the right to be accompanied.

Consideration is given as to whether extending and/or increasing the assistance, adjustments and timescales offered under the previous stages is appropriate. If it is decided that performance will not become acceptable in the current post consideration will again be given as to whether a permanent redeployment opportunity is possible.

A dismissal could possibly take place if all options have been reasonably considered. A dismissal may also take place if no suitable, alternative employment is available, or the employee declines reasonable offers of redeployment.

The employee should be made aware when they will receive the outcome letter, ideally this should be outlined in the hearing.

The letter should confirm the following outcomes of the final resolution process:

- reasons for the dismissal
- the final date of employment
- any necessary financial or administrative arrangements
- to whom and within what time limit any appeal should be made

The employee could possibly be placed on a performance improvement plan whilst the Service has served notice. If the employee meets the objectives whilst on notice, then the Service may withdraw the notice to terminate the employment.

Whilst on notice, it is the manager's responsibility to meet with their employee on a regular basis to review the improvement plan. It is still the line manager's responsibility to provide support throughout this process.

The People Support Services Business Partner should be involved in this formal notification.

5. **Appeal Procedure**

Whatever the outcome of the capability process the employee is notified of the right to appeal this decision. The organisation can confirm that the appeal hearing manager will have had no involvement in the capability process.

The appeal will usually be heard by a manager more senior to the one who originally heard the case, where this is not practical, it will be heard by a manager who has the authority to review and change the original decision.

An employee wishing to appeal against capability action should submit notice of appeal to the appeal manager. The details of who will hear the appeal will be in the letter detailing the outcome. The appeal must be put in writing within 7 days of receipt of the written confirmation of the capability action, stating the grounds of appeal (please see employees' guidance for grounds for appeal).

The appeal hearing manager will make contact with the employee (in writing) to confirm receipt of the appeal letter.

Arrangements will be made for appeals against capability action to be heard as soon as reasonably practicable following receipt of the notice of appeal.

The employee will be notified as soon as is reasonably practicable of the time, date and place of the appeal hearing. They will be advised that they may be accompanied by a colleague, trade union representative or a representative body.

Where an appeal against dismissal is upheld, the employee shall be reinstated/ re-engaged from the date of dismissal, and continuity of service will be maintained.

The result of the appeal and the reasons for the decision will normally be notified to the employee orally at the end of the hearing and in writing within 7 days of the appeal hearing. A copy will be sent to the person who accompanies the employee and to the employee's line manager.

This forms the final decision and is the end of the formal procedure within the workplace.

Records

Records and documents should be kept in a confidential file and not be disclosed to, or discussed with, any person who is not directly involved in the capability procedure.

Appendix 2

GUIDANCE FOR MANAGERS

1. **What is expected from the employee?**

It is the responsibility of the employee to maintain their levels of performance, if for any reason the employee is not achieving their standard levels of performance, then it is the employees' responsibility to bring this matter to their managers' attention, and if the employee is unaware of their performance shortfall then the manager should bring this to their attention.

The Service encourages employees to raise any concerns or issues with their line managers at the early stages and not to wait for the performance to take a drastic drop.

It is the responsibility of the employee to take part in regular one to ones and agree on a set of objectives that can be achieved within the set timescales. The line manager will monitor the employees' performance throughout this process, however if the employee requires further support then it is the employees' responsibility to book regular meetings with the line manager. After every meeting the employee must come out with a solution that will ensure that performance is achieved and maintained.

If there are any underlying issues i.e. personal factors or health reasons, it is the employee's responsibility to bring this information to the manager's attention, the employee must not wait for a one to ones to be scheduled, and the employee must arrange a private meeting.

The employee must maintain their own Individual Personal Development Review (IPDR) throughout the year and bring this along to all one to one meetings where performance is discussed. The manager should also take responsibility for their employees IPDR to ensure that clear objectives are set and these are achievable.

2. **Employee responsibilities whilst a performance improvement plan is in place**

It is the employee's responsibility to deliver against the set performance improvement plan, if the employee requires further support then it is their responsibility to liaise with the line manager and agree on what further support is required. The employee must keep a copy of the performance improvement plan or any other relevant documentation and bring this to any meetings where performance is discussed.

What additional support looks like:

- additional training requirements
- additional one to one meetings with the line manager to get clarity on specific areas or if something is unclear
- shadowing another employee to get an understanding or how the activity is carried out
- gain feedback from line manager on current performance improvement plan and have an understanding that the employee is on the right track to achieve the set goal

3. **Employee responsibility during formal process**

It is the employee's responsibility to familiarise themselves with this Standing Order, so they are aware of the process and what is expected throughout the formal process. This will assist the employee to fully engage with the process.

It is the employee's responsibility to attend the formal meeting and inform the line manager if they will be represented during this meeting.

The employee must bring information to the meeting as to why the set targets or objectives were not met and provide solutions to achieve these during the formal process.

The employee is required to be open and honest throughout the formal process and advise the line manager on what the problems are which prevent the employee from achieving their performance.

4. **Appeal process**

An employee wishing to appeal against the capability outcome should submit notice of appeal to the appeal manager. The details of the appeal hearing manager will be outlined in the letter they receive with the outcome. The employee will need to submit the appeal in writing within 7 days of receipt of the written confirmation of capability outcome, stating the grounds of appeal, these would normally be one or more of the following:

- there was a defect in the procedure;
- the outcome was too severe, giving reasons; or
- new evidence has come to light which has an impact on the decision.

The employee must be aware that the appeal process is the last stage of capability procedure and once the result of the appeal has been delivered, then this is the final outcome.

