

<b>LORETTO MANAGEMENT OF CAPABILITY POLICY AND PROCEDURE</b>		<b>No. 03</b>
<b>Date of Review:</b> October 2019	<b>Next Review Due:</b> October 2022	<b>Approved:</b> February 2019

## 1. Introduction

It is the aim of Loretto to ensure that all employees are treated in a fair and equitable manner. Employees are required to perform the duties of their post to an acceptable standard. Where this standard is not met, employees will be offered support, encouragement, guidance and if necessary training to improve their work performance. There is, however, a distinction between incapacity and lack of performance attributable to wilful refusal to work at a satisfactory standard. The latter will be dealt with through the organisation's Disciplinary policy and procedure.

Where an employee's performance is related to a capability issue, the primary objective must be to assist and support the employee to improve to the required standard and every effort must be made to keep the employee at work. The reasons for the unacceptable performance need to be identified and an appropriate course of action jointly agreed to improve the performance. Dismissal for lack of performance will only be considered once all avenues have been exhausted. These would include additional support and supervision, training, referral to employee counselling or alternative employment where appropriate.

This procedure is not intended to prevent the normal process of support and supervision. This ongoing process may assist in achieving improvement to the required standard. Ongoing support and supervision is not part of the Capability Procedure, should issues arise they will be dealt with separately.

This policy reflects relevant legislation including, the Employment Rights Act 1996, the Human Rights Act 1998, the Equality Act 2010, the Employment Relations Act 1999 and Data Protection Act 1998.

## 2. Definition

The Employment Rights Act 1996 states that "capability is assessed by reference to skill, aptitude, health or any other physical or mental quality." It also states that "incapability must relate to the work or the kind of work that the employee was employed by the employer to do".

This policy and procedure are designed to deal with those cases where the employee is lacking in some area or knowledge, skill or ability, resulting in a failure to be able to carry out the required duties to an acceptable standard.

The procedure is to be used where there is a genuine lack of capability, rather than a deliberate failure on the part of the employee to perform to the standards of which they are capable. In the event of a deliberate failure by the employee, managers should refer to the Disciplinary procedure.

A genuine lack of capability may come about for a variety of reasons including:

- Ill health
- Personal circumstances
- Qualifications
- Lapse or loss of registration
- Changes in the workplace environment
- Bullying and harassment
- Notification from PVG Scheme that an individual is considered for listing/banned from working with protected adults where the individuals post requires them to be a member of the PVG Scheme for Protected Adults.

### **3. Aims**

The policy will ensure that capability issues are dealt with in a fair and consistent manner. The policy provides:

- Assistance to employees to improve performance wherever possible when such deficiencies exist
- Fair and consistent means of dealing with capability issues without recourse to the disciplinary procedure.

### **4. Representation**

At all stages of the formal procedure, an employee is entitled to have a representative present. Employees may be accompanied by a Trade Union Representative or any person currently employed by one of the Wheatley Group companies. If an employee chooses to be accompanied they should make the necessary arrangements themselves. It will always be made clear to the employee and the representative that the capability rather than the disciplinary procedure is being used.

### **5. Responsibilities**

#### **5.1 Managers**

Managers will ensure that the most suitable candidates are appointed to posts, by effective use of recruitment and selection.

Managers are expected to ensure that all staff are aware of the need to perform to an acceptable standard through the staff development plan and support and supervision.

Managers will promote a culture where issues of capability are dealt with in a supportive manner.

## **5.2 Staff**

Staff will be aware of the standard of performance expected of them.

Staff will try to the best of their ability to meet these standards.

Staff will be open and honest with managers in dealing with concerns over poor performance.

Staff will encourage colleagues to acknowledge poor performance and to raise it with line management.

## **5.3 Human Resources**

Human Resources will ensure that all managers are aware of the provisions of the policy and procedure.

Human Resources will support and advise managers in applying procedures.

## **6. Monitoring and Review**

The Management Committee will receive an annual report on the number of staff affected by the Capability procedure.

General feedback on how issues are dealt with will be received through Review Days and Exit questionnaires. In addition, feedback may be obtained from Occupational Health reports or Contact Officers (Dignity at Work). Contact Officers will only provide information relating to the number of people who have contacted them and if any concerns were raised relating to how the policy has been implemented. Individual's circumstances will not be discussed.