



Capability Policy

V1.0 November 2025

You have a contractual responsibility to perform to the standards required of your job role and ELCAP will provide all reasonable support and encouragement to assist in the achievement of this.

If your performance is below the standards expected in your role, this will have a detrimental effect on the Company. In these circumstances, it is the responsibility of management to bring this to the attention of the individual and work closely with you to improve your performance to an acceptable standard.

If it is identified that a sub-standard performance is due to negligence or lack of application on the part of the employee, this is a conduct issue and will be dealt with through the Company's Disciplinary procedure. Where sub-standard performance relates to a lack of the required knowledge, skills or ability, this will be dealt with as a capability issue and dealt with through the procedure identified in this policy. Issues relating to attendance will be dealt with through the Absence Management procedures.

The procedure identified in this policy will:

- Ensure that a fair and reasonable process exists where an employee is experiencing performance difficulties.
- Ensure that the cases of poor performance are handled appropriately with any underlying reasons taken into account.
- Ensure that employees are offered support and appropriate training within a performance review framework.

In normal circumstances, the Company reserves the right not to follow the Capability Policy for employees who have less than two years' continuous service. Except where, at the Manager's discretion, it is considered a suitable course of action is to follow the Capability Policy.

Recording Meetings

Meetings will take place face to face where it is possible to do so however there may be times when it is necessary to conduct some meetings remotely. The Company will not covertly record any meetings using a recording device. Where it is necessary to record a meeting using a recording device the interviewing Manager will always ask your permission to do so before recording the meeting. Likewise you must obtain the Manager's permission if you wish to record the meeting using a recording device. It is strictly forbidden for you to record any meetings covertly. If a Manager records a meeting using a recording device this will be for the purpose of taking notes of the meeting. You will be provided with a copy of the notes of the meeting to ensure it is an accurate account of the meeting. It will be added to the notes of the meeting, if recording has taken place.

Informal Procedure

Suite One, Ground Floor, Hercules House, Station Road, Eskmills, Musselburgh, East Lothian EH21 7PQ - www.elcap.org Tel: 01875 814 114

ELCAP is a Scottish charity (SC003159) and a company limited by guarantee (SC116745). We are registered with the Care Inspectorate.

1. When there is evidence that you are not performing to the standards required of your job function, your line Manager will investigate the circumstances without delay and endeavour to ascertain the reasons for the unsatisfactory performance.
2. If, following this investigation, the line Manager believes that your performance does not meet the standards required an informal discussion with you will be arranged. At this meeting the Manager will:
 - a. Ensure you are clear about the areas in which your performance is below the standards required, and the manager will provide evidence for this view.
 - b. Give you the opportunity to explain your under-performance and to raise any concerns you may have about the job, or the support and guidance you have received.
 - c. Ensure that you are aware of the standards required for each part of your job function about which there is a concern.
 - d. Explore solutions to the problem with you. This could include additional training, providing a mentor, coaching or some other kind of ongoing support to the individual.
 - e. Set a reasonable time frame within which improvement is expected and arrange a further meeting at the end of this time to review the situation. When establishing "reasonable timescales" for improvement, Managers must consider the complexity of the tasks involved in relation to the qualifications and experience of the individual.

The content and outcome of this informal meeting will be confirmed by the Manager in writing to the employee, including the type of improvement required, any additional support or training that will be provided, any other agreed actions and the timescale for improvement and review.

At the end of the improvement time period, the Manager will meet with you to review your performance and assess whether you have met the pre-determined standards of performance. If the standards have been met, then no further action will be taken. This meeting will be the investigation stage of the process therefore if the standards have not been met the Manager will identify the reasons and any mitigating circumstances. If the Manager believes there has been no improvement in the standards, the process will move to the formal procedure.

Formal Procedure

1. You will be invited to a meeting, usually with a minimum of 48 hours' notice being given, to discuss the shortfalls in standards. You will be given full details of the concerns regarding your performance and sufficient information for you to prepare properly for the meeting. You will have the right to be accompanied at this meeting by a work colleague or a Trade Union representative.

2. At the meeting:
 - You will be informed of where the required standards are not being met. There will be a reference to earlier informal meetings and the steps that had been taken to support an improvement in your performance.
 - You will be given the opportunity to explain any shortfalls in your performance and these will be fully discussed.
 - After considering all the points raised the Manager holding the meeting will decide whether to issue a **First Written Warning**.
 - The Manager will ensure that you have a full understanding of the required standards of the job function and will be given a clear time period within which your performance must improve. During the timescale for improvement, your performance will be reviewed at regular intervals.
 - You must clearly understand that failure to meet the standards specified, could lead to further disciplinary action which could ultimately lead to dismissal.
 - A copy of the **First Written Warning** will be issued to you and a copy retained on your Personnel file for the time specified in the Disciplinary procedure.
 - You will be given the right of appeal.

3. At the end of the review period, the Manager will review progress against the agreed standards for improvement. This meeting will be the investigation stage of the process therefore if the standards have not been met, the Manager will identify the reasons and any mitigating circumstances. If your performance does not meet the standards specified, or you fail to improve, you will be sent a letter inviting you to attend another meeting to again discuss the shortfalls, usually giving a minimum of 48 hours' notice of the meeting. You will have the right to be accompanied at this meeting by a work colleague or a Trade Union representative.

The meeting will follow the same format as the meeting stated in point 2 above. However, if the Manager does not believe there is any mitigating reason why you failed to meet the required standards, a **Written Warning/Final Written Warning** will be issued.

A copy of the **Written Warning/Final Written Warning** will be issued to you and a copy retained on your Personnel file for the time specified in the Disciplinary procedure. You will be given the right of appeal.

4. At the end of the review period, the Manager will again review against the agreed standards for improvement. This meeting will be the investigation stage of the process therefore if the standards have not been met, the Manager will identify the reasons and any mitigating circumstances. If your performance does not improve within the given timescale, the Manager will follow the procedure as before. The letter issued to you inviting you to attend this meeting will state that an outcome of this meeting could be dismissal. You will have the right to be accompanied at this meeting by a work colleague or a Trade Union representative.

The meeting will follow the same format as the meeting stated in point 2 above. However, if the Manager does not believe there is any mitigating reason why you failed to meet the required standards, you will be dismissed from your position with the Company.

You will be issued with a letter of dismissal, with notice, and the right of appeal.

At each stage, you will have the right to appeal, and will be provided with the timescale in which to appeal, and to whom you should appeal. You will be required to put the appeal in writing, setting out the grounds on which it is being made.

Risk Assessments

Where carrying out a role which presents a Health and Safety risk for the individual and for the Company then the Company will seek independent advice from a trained physician. The Company will consult fully with you however following a risk assessment and supporting information you may be removed from your role with immediate effect.

The Company will continue to monitor and consult with you and seek further information. If, however, the Company is no longer able to allow you to perform duties due to an ongoing risk then the Company will endeavor to offer you an alternative position.

Where this is not possible and subject to consultation with you the Company may have no option but to dismiss on the grounds of Capability. This is subject to following the above procedure.