

**Capability Policy**

This policy will be reviewed on an ongoing basis, at least once a year. NAPA will amend this policy, following consultation, where appropriate.

Date of last review: 04/05/2021

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**Introduction**
This policy applies to all employees and freelance workers at NAPA. This policy sets out the procedure to be followed where an employee fails to reach or maintain the required standards of job performance through a lack of knowledge, skill or ability.

NAPA’s Disciplinary Policy will be used where the failure to perform to the standards required is a matter of misconduct.

NAPA reserves the right to implement the capability procedure at any of the stages as set out below, taking into account the relevant circumstances including the level of poor performance, the nature of the role and the performance issues in question. In particular in cases of gross negligence or in any case involving an employee who has not yet completed their probationary period, dismissal without following the capability procedure may be appropriate.

**Principles**

Employees are expected to be capable of carrying out the work they are engaged to do at the required standard.

Reasonable efforts should be made to informally address issues of under-performance without instigating the Formal Procedure.

The Chief Executive is required to provide an employee with a reasonable opportunity to improve and support to achieve the required standard of performance. The period of time to improve and level of support must be balanced against the needs of the business.

At any formal meetings employees have the right to be accompanied by an accredited trade union representative or a NAPA colleague (other than a practicing lawyer), and the employee will be advised of that right prior to the meeting. The companion should be allowed to address the meeting in order to present the employee’s case.

There is no minimum period of notice for the formal capability meetings, but the member of staff will be permitted sufficient time to contact and brief an accredited representative or NAPA colleague.

Employees must take all reasonable steps to attend formal capability meetings. Failure to attend a meeting without good reason may be treated as misconduct.

Employees have the right to state their cases at formal capability meetings before decisions are reached.

At any formal meeting, the Chief Executive may arrange a note taker to take summary notes of the meeting. A copy of the summary notes will be sent to the employee and their representative (if appropriate) for comment. Provided comments are received within a reasonable timeframe, as defined by the Chief Executive, they will be held with the original notes from the meeting.

**Informal Action**

In the normal course of employment, the Chief Executive will discuss with an employee their performance, providing regular feedback.

The Chief Executive is responsible for setting realistic standards of performance, for explaining these standards to employees and for the provision of training, support and guidance, where appropriate, so that the employee has the opportunity to perform well.

The CEO and the employee should aim to discuss any under-performance issues at or around the time they arise.

Prior to the instigation of the formal procedure the CEO will ensure that an employee has been advised of their under-performance and will provide support and assistance so that the employee has the opportunity to achieve the required standard. Support may include the provision of training, development, advice, guidance or other support. As part of this process the CEO will advise the employee that failure to reach the required performance standard may result in the formal procedure being instigated. This will be confirmed in writing.

Where informal action does not achieve satisfactory results or if informal action is not appropriate, the Formal Procedure will be implemented.

**Formal Procedure**

**Step 1: First Capability Meeting**

The Chief Executive will write to the employee notifying them of the concerns over their performance and the basis of those concerns and will invite them to a meeting to discuss the matter.

At the meeting, the Chief Executive will explain the way in which the required standard has not been met, using examples to support concerns. Through discussion with the individual, the CEO will seek to identify the reasons for the unsatisfactory performance.

Following the meeting, if the CEO decides that it is appropriate to do so, the employee will be issued with a written Improvement Note setting out the areas in which the employee has not met the required performance standards. A formal Improvement Plan will be initiated setting out the improvement that is required, the standard to be reached and time within which it must be achieved. The Improvement Note will stipulate that failure to reach the required performance standard may result in further formal action being taken and could lead to dismissal.

The Improvement Note will be disregarded for capability purposes after 12 months or such other period as specified at the time it is issued.

**Improvement Plan**

An Improvement Plan aims to enable the individual to achieve the required standard of performance.

The plan will include clear, measurable, realistic objectives and timelines. Performance progress will be reviewed periodically. Specific actions will be detailed and may include training and development activities, advice, guidance, or support activities.

When issuing an Improvement Plan the CEO will ensure the length of the plan is reasonable by taking into account all of the relevant circumstances including: -

* The level of poor performance
* The performance issues in question and improvement required; and
* The nature of the role

The length of the plan would not normally exceed three months.

**Interim Review**

During the Improvement Plan, the Chief Executive will usually hold at least one interim review meeting to assess the individual’s performance against the Improvement Plan period to date.

Where progress towards the objectives is satisfactory, it will be recognised, and continued improvement encouraged. If the individual is not making sufficient progress towards the objectives the Chief Executive will discuss with the employee the further improvement that is required and any support that is needed.

**Step 2: Second Capability Meeting**

At the end of the Improvement Plan period, a meeting will be held to review the employee’s performance. The CEO will write to the employee in advance explaining the purpose of that meeting.

The possible outcomes of the meeting may include but are not limited to:

No further action: If the Chief Executive determines that the objectives have been met and the individual is performing at the required standard no further action will be taken. The employee will be informed in writing that they have achieved the required level and that they are expected to maintain that standard of performance.

Extension of the Improvement Plan: Where significant progress has been made in achieving the required standard, but concerns remain, the CEO may decide it appropriate to extend the Improvement Plan. The length of the extension will take into account the length of the previous Improvement Plan and the level of under-performance but cannot exceed the expiry of the Improvement Note.

Where the required standard of performance is not achieved during the extension of the Improvement Plan the employee will be required to attend a further Step 2 meeting.

Final written warning: If the objectives have not been met and the Chief Executive concludes that the under-performance may still be rectified by further support a final written warning and Improvement Plan may be issued to the employee. The warning will stipulate that failure to reach the required performance standard may result in dismissal. A final written warning will be disregarded for capability purposes after 12 months or such other period as specified at the time it is issued. In exceptional circumstances a warning may remain in force for more than 12 months or never be removed.

**Step 3: Third Capability Meeting**

At the end of a further Improvement Plan period, a meeting will be held to review the employee’s performance. The Chief Executive will write to the employee in advance explaining the purpose of that meeting and that one of the possible outcomes may be dismissal or redeployment to another position.

The possible outcomes of the meeting may include but are not limited to:

Redeployment to another position - the Chief Executive may consider that this is appropriate as an alternative to dismissal. This may include demotion.

Dismissal with notice

No further action - this will follow the principles set out at Step 2 above.

The CEO will inform the employee of their decision in writing.

**Step 4: The Right to Appeal**

Employees have a right of appeal against the decision under all formal stages of this procedure. Appeals should be made in writing to the Chair of the Board of Trustees.