

**Policy Review –Capability Policy And Procedure
Resources Committee 11 February 2020**

RECOMMENDED

- (i) that the Absence Management Policy and Procedure attached as appendix 1 and Capability Procedure (Performance) attached as appendix 2 are the subject of consultation with all staff

and that the Consultation results are reported to Council with the Committee's recommendations that

- (i) that the Absence Management Policy and Procedure attached as appendix 1 is adopted
- (ii) that the Capability Procedure (Performance) attached as appendix 2 is adopted
- (iii) that the Absence Management Policy and Procedure and the Capability Procedure (Performance) are reviewed in 3 years unless legislation or best practice requires an earlier review

Contextual Information

1. The Town Council's current Capability Policy and Procedure sets out the Town Council's approach to dealing with capability matters (e.g. absence and performance). The scheme was first approved in February 2013 and was reviewed in October 2016.
2. Recent advice from South West Council's is that it would be better to have separate absence management and performance policies and procedures, therefore 2 new policies have been drafted using the town council's existing capability framework and model documents from South West Councils.

Report prepared: 27 January 2020

Contact for further information: The Town Clerk Tel 01460 52149 or email town.council@ilminster.gov.uk

**Iminster Town Council
Absence Management Policy and Procedure
Approved by Council XXXX**



Policy

1. The Town Council is committed to providing effective, high quality service to all its customers and to optimising the contribution of all employees. As part of this aim, it is essential that all employees are committed to maximising attendance.
2. The aim of this Absence Management Policy is to encourage and assist employees to improve their attendance, rather than take punitive action against them. Accordingly, the procedure provides a fair and effective way to enable the Town Council to respond to unsatisfactory attendance.
3. The Town Council is concerned for the wellbeing of its employees and seeks to protect their health and safety by creating a safe working environment. In return, the Town Council expects all employees to take reasonable care of their own health, seek medical help whenever appropriate, and to attend work when fit to do so.
4. The Town Council recognises that genuine medical grounds will occasionally result in employee absence. It is the Town Council's policy to treat all such sickness absence in a fair, sensitive, and consistent manner across all areas of the workforce.
5. The Town Council must balance the sensitive management of genuine individual sickness against its need to be publicly accountable for its resource allocation and, as such, cannot sustain high levels of sickness absence. Action will therefore be taken to address recurrent short term sickness or extended periods of absence as appropriate.

Context with Other Policies and Procedures

6. This Absence Management Procedure covers matters arising from / due to poor attendance whether due to ill health or other reasons.
The Capability (Performance) Policy and Procedure sets out the framework for resolving issues due to poor performance.
The Disciplinary procedure relates to matters regarding conduct, this includes unauthorised absence, non-conformance with absence notification requirements, and persistently poor time-keeping.
It is feasible there will be overlap between two or more policies and procedures; in such cases The Town Clerk will consult with the Chair and Vice-Chair of the Resources Committee in determining which policy and procedure will be followed.
7. The principles of support and encouragement to improve will apply to all employees, however the formal procedure only applies to employees who have been confirmed in their post, it does not apply during an employee's probationary period.
8. Action under this procedure against the Town Clerk or Responsible Financial Officer can only be taken by Members of the Town Council. In the event that a matter arises in respect of the Town Clerk and Responsible Financial Officer the matter will be referred to the Mayor, Chair and Vice-Chair of the Resources Committee. Those three people will agree on a course of action, including obtaining any advice that is required and the appointment of an appropriate liaison person. In the event that action may be warranted under the absence management procedure the general

provisions of this procedure will apply and any capability meetings will be conducted by the Grievance, Capability and Disciplinary Committee

9. In normal circumstances no action will be taken against an officer of a recognised Trade Union until the matter has been discussed with a full-time officer of that union.
10. This policy and procedure shall form part of the employee contract of employment and may be amended by the Town Council from time to time as required by law. Employees will be notified of any changes.

Policy Aims

11. In order for the Town Council to meet its responsibilities, it will ensure that:
 - It provides a supportive environment for those employees affected by ill-health
 - Managers and employees adhere to this policy and procedure; and
 - Levels of sickness absence are the subject of routine monitoring.

Responsibilities

12. The onus for attending work on a regular basis and for reporting absence in accordance with the Town Council's agreed procedures rests with the employee. It is also an employee's responsibility to appropriately detail any periods of absence on their record of hours worked. All Town Council employees will be given a copy of the Absence Management Policy and Procedure when they start work with the Town Council and when any changes are made to the Policy.
13. The responsibility for recording, monitoring, and managing absence on a day-to-day basis lies with the Town Clerk

Procedures

Employee Sickness Reporting Procedure

14. Employees who are unable to work due to illness/injury must contact the Line Manager as soon as possible or arrange for someone else to do this on their behalf. This should be no later than 09.30 on the first day of absence or the nearest working day. The employee should provide some indication of:
 - The nature of the absence;
 - The date the injury/illness began (including weekends and holidays);
 - The expected duration of the absence; and
 - Whether there are any immediate work commitments that need completing/reassigning during the absence.
15. If their Line Manager is unavailable, the employee should ensure that contact is made with the Town Council office.
16. The employee must maintain contact with his or her Line Manager during any period of sickness absence lasting longer than one day, so that the Line Manager is aware of any progress and the expected date of return to work. If the employee is unable to make contact, they must arrange for someone else to do this on their behalf.

17. Failure to follow the sickness reporting process might lead to the absence from work being considered as unauthorised, resulting in loss of pay and possible disciplinary action.

Certification

18. Where the absence is for a period of up to seven days (inclusive of weekends) and not covered by a doctor's certificate, the employee will be asked to complete a self-certification form on their return to work.
19. If the absence exceeds seven days – and the employee has not already done so – the employee should provide a doctor's certificate for the remainder of the absence. The employee will need to ensure that there is always a current certificate. The doctor's certificate ('fit note') will include whether or not the employee needs to see a doctor again before returning to work.
20. If the doctor's certificate states that the employee "may be fit for work", the employee should inform the Town Clerk immediately. They will discuss with the employee whether there are any additional measures that may be needed to facilitate the return to work, taking into account the doctor's advice. This may take place at a Return to Work Interview or an Absence Review Meeting. If appropriate measures cannot be taken, the employee will remain on sick leave and the Town Clerk will set a date to review the situation.

Return to Work Meetings

21. When the employee returns to work after any period of absence their Line Manger will arrange to meet with them. This meeting will occur on the first day back or as soon as possible. The purpose of this meeting is:
 - To provide an opportunity for the Line Manager to check that the employee is fit enough to return to work;
 - To give the employee an opportunity to voice any concerns that they may have and/or to identify any domestic, welfare, or work-related problems in an appropriate forum;
 - To ensure that the employee is aware of work-related matters that have occurred during their absence; and
 - Fill out the Sickness Declaration Form.

Miscellaneous

22. It is important that the employee complies with these procedures so that:
 - The Town Council can be aware of any potential problems and provide assistance to the employee where necessary; and
 - Any sick pay to which the employee would otherwise be entitled is not withheld or refused.
23. Records retained in respect of sickness absence will be treated with sensitivity and confidentiality at all times, in accordance with the provisions of prevailing Data Protection legislation. The employee is entitled to access their records on request.
24. Due to the potentially sensitive nature of information that may be disclosed during implementation of Sickness Review Meetings etc Councillors in general will not be informed of action being taken under the attendance management policy and procedure. The Town Clerk will inform only the Chair of the Resources Committee, who will treat the information with sensitivity and confidentiality, that action is being

taken under the policy and procedure and the information provided by the Town Clerk will be the name of the employee and the nature of the concern e.g. frequent intermittent absence.

25. The Chair of the Resources Committee will not be a member of the Grievance, Capability and Disciplinary Committee or the Appeals Committee so as to avoid any potential conflicts of interest with this Policy and Procedure.
26. In most cases the stages in this procedure will be applied sequentially, however in rare cases it may be appropriate to skip or accelerate steps. In addition the town council reserves the right to put employees on paid leave during the process, where appropriate, for example paid leave may be appropriate where circumstances render an employee unproductive or where, in the Town Council's opinion, continued work presents unacceptable risk to the Town Council or the employee.

Underlying Medical Conditions

27. If at any stage of the Managing Attendance Review Process the employee and/or their manager identifies that their attendance may be affected by an underlying medical condition, the Town Clerk will give consideration whether to request that an Occupational Health referral is arranged.
28. This process would involve gaining the employee's consent to refer them to the Town Council's Occupational Health advisor. The purpose of this referral would be to obtain independent medical advice on:
 - The nature of any underlying/recurrent condition;
 - How to support the employee to improve their attendance, e.g. suggestions for reasonable adjustments to the employee's work, which the Town Council could consider.
29. Any agreed adjustments should be taken into account when applying the following procedure, which may need to be adapted accordingly.

Frequent Intermittent Absence

30. In addition to the Return to Work interviews after all periods of absence, the Council will institute a more formal review of attendance records and reasons for absence with an employee if there has been either (a) four episodes of absence or (b) a total of 10 days' short-term sickness absence within any period of 12 months. The relevant manager will arrange a Sickness Review Meeting to meet with any employee whose absence record matches or exceeds the above criteria.
31. During the meeting, the manager should draw the employee's attention to their poor attendance record and the problems that their absences are causing for the Town Council and other employees. Where no underlying medical condition is disclosed, the employee will be advised that their attendance record will be monitored (over a period of not less than 3 months) and that significant improvement will be required. In addition, employees will be warned that if no such improvement is forthcoming, serious consideration will be given to reviewing their employment situation. This will be confirmed in writing.
32. Return to Work interviews will continue to be carried out following any absences that occur during this monitoring period. These interviews afford the manager the opportunity to remind the employee of the Town Council's concerns.
33. If no significant improvement in attendance is demonstrated, a further Sickness Review Meeting will be arranged. The employee will be invited in writing to attend

this meeting, and will be offered the right to be accompanied by a work colleague or trade union representative. At this meeting, the employee will once again be reminded of the problems caused by the absences and, if this has not already been addressed, they will be asked if they wish to disclose any underlying medical condition or problem of which the manager is unaware. If such a condition is disclosed, the advice in section entitled "Underlying Medical Conditions" above (paras 23-25) should be followed. Where no adjustments to this process have been agreed (e.g. due to an underlying medical condition), the employee will normally be told that their attendance record will be subject to a further period of monitoring (of not less than 3 months) and that their employment may be terminated if the required improvement is not effected.

34. Employees whose levels of attendance improve satisfactorily during periods of informal or formal monitoring will be reminded that they will be expected to maintain these levels of attendance. Failure to do so will result in further monitoring or the initiation of formal action.
35. Where an employee's attendance has not improved to the required level, an Attendance Hearing will be arranged (see section entitled "Attendance Hearing, paras 42-53 below) to consider whether or not the employee should be dismissed or if some other sanction or action is appropriate.

Long-Term Absence

36. All cases of long-term absence will be treated sympathetically and every assistance will be given to the employee to return to work. The Town Council will maintain contact with the employee, usually this will be done by phone calls, emails and possible visits by the employee's Line Manager but may also include other general and staff updates. The employee should keep the Town Council informed of developments relating to their medical condition. The Town Council will hold Sickness Review Meetings with the employee during their absence, as appropriate, to keep up to date, review the on-going absence, and offer support to the employee where appropriate.
37. In order to ensure that the Town Council has access to guidance and advice in respect of the best course of action to follow in relation to such cases of absence, employees who have been absent for a continuous period of four weeks might, depending on the nature of the absence in question, be referred to the Council's Occupational Health Physician. Where the Occupational Health Physician makes a recommendation that might affect the employee's continued employment, the relevant manager will hold a Sickness Review Meeting with the employee to discuss the alternative options. Employees may wish to have the support of a trade union representative or a work colleague present during such a meeting, and this should be positively encouraged.
38. Where a return to work following a period of prolonged absence might be facilitated by temporary redeployment or phased re-introduction (e.g. job sharing or part-time working) an employee can discuss these options with their manager and, If such measures are appropriate, the Town Council will ensure that the support mechanisms necessary for this to occur are provided. Such arrangements will be for a defined period and will be subject to joint review.
39. In certain cases, the Occupational Health Physician might find that an employee is unfit to perform a particular job but fit enough to undertake other types of work. In such cases, full consideration will be given to the possibility of redeployment into

alternative positions. Consideration will also be given to redeployment in cases where work in a particular place poses problems with attendance.

40. Where an employee remains absent and a return to work is not foreseeable within a reasonable timescale, the Town Clerk will arrange a Final Sickness Review meeting (see Section entitled "Final Sickness Review below, paras 37-38), which may lead to an Attendance Hearing (see Section entitled "Attendance Hearing" below – paras 42-53) to consider dismissal.

Final Sickness Review Meeting

41. Prior to dismissal being considered for either frequent intermittent absence or long-term absence, the Town Clerk will meet with the individual to explore whether there are any reasonable adjustments that could be made to enable an employee to remain employed.
42. Termination of employment may take place where:
 - An employee is declared permanently unfit for work;
 - An employee is declared medically unfit for their work and alternative employment cannot be found;
 - A decision has been taken that the service can no longer tolerate a high level of absence; or
 - A decision is taken, within the Council's disciplinary process, that an employee has wilfully abused the sickness absence/payments provisions or absented themselves without permission.

Attendance Hearing

43. To reach a decision about whether dismissal is appropriate, an Attendance Hearing will be arranged. The Attendance Hearing Panel will make the decision as to whether or not the employee should be dismissed or whether or not to impose any other appropriate sanction or action.
44. The Attendance Hearing Panel will comprise three members of the Grievance, Capability and Disciplinary Committee,
45. The employee will be invited in writing, a minimum of 5 working days before the Hearing date, to attend the hearing and notified of their right to be accompanied by a Trade Union Representative or colleague.
46. Where the employee's companion is not available on the originally scheduled date, the employee may request an alternative date and time, so long as it is reasonable and it is not more than five working days after the original date.
47. The employee should take all reasonable steps to attend the capability meeting. If the employee fails to attend, with good reason, the meeting will be rescheduled. Should the employee either fail to attend the first meeting without reason or the second meeting, with or without a reason, the meeting may proceed in their absence.
48. The Attendance Hearing Panel may have an Advisor in attendance, whose role is to give advice on issues of procedure, conditions of employment and employment legislation. The Advisor is not part of the decision making process although he or she may be attend during the decision making discussions to give advice.
49. Arrangements will be made for an independent person (that is independent of the management of monitoring of the situation under consideration) to take written notes of the meeting. Tape recordings are not permitted by either party.

50. The employee's companion (Trade Union representative or colleague as stated in 39 above) may act as the employee's witness, present an employee's case, sum up and respond on the employee's behalf to any view expressed at the Hearing but may not answer questions on employee's behalf.
51. The Town Clerk and / or relevant manager will attend to outline the history of absence and any relevant steps taken and advice received.
52. All paperwork relating to the hearing will be circulated 5 days in advance of the hearing to all parties attending.
53. Once the Panel has considered the manager's and employee's cases, and all other relevant information, it will adjourn to make a decision.
Potential decisions include:
 - Dismissal
 - Warning
54. The decision of the Panel will be confirmed to the employee in writing within 5 working days of the Attendance Hearing. The letter should clearly set out:
 1. A summary of the attendance problem
 2. The Panel's decision:
 - a. If a warning has been issued the period during which any warning will remain "live"; the level of improvement required and the timescale for achieving that improvement including any milestones; a review date; any support that the town Council will provide; the next stage of the process should the required improvement not be attained or
 - b. If the decision is not to take action at this point and to review again in a certain time period, the applicable timescale for this; or
 - c. If the decision is to dismiss the employee, inform them of their relevant notice period and provide them with any relevant pension information; and
 3. The employee's right of appeal.

Note: Any Attendance Hearing Panel or Appeal Hearing is a meeting of the Grievance, Capability and Disciplinary Committee or appeals Committee and as such is a formal meeting of the Council and therefore must be properly convened with the issue and publication of agendas and minutes.

Appeals

55. Employees have the right to appeal against any decision to issue a formal warning or dismissal under this procedure. If an employee wishes to appeal, they should write to the Town Clerk setting out the grounds of their appeal. The Town Clerk must receive the appeal within 10 days of the date of the letter informing the employee of the outcome of the Attendance Hearing.
56. Appeals will be considered by 3 members of the Appeals Committee at an Appeal Hearing.
57. An Appeal Hearing will be held where the employee can present their appeal. The Chair of the original panel will also attend to explain the original decision. Witnesses may be called.
58. The Appeals Committee may have an Advisor in attendance, whose role is to give advice on issues of procedure, conditions of employment and employment legislation. The Advisor is not part of the decision making process although he or she may be attend during the decision making discussions to give advice.

59. Arrangements will be made for an independent person (that is independent of the management of the situation under consideration) to take written notes of the meeting. Tape recordings are not permitted by either party.
60. Once the Appeal Panel has considered both the employee's appeal and the Hearing Chair's case, and considered all other relevant information, it will adjourn to make a decision.
61. The decision of the Appeal Panel is final and will be confirmed to the employee in writing within 5 working days. There is no further right of Appeal.

Personal, Domestic, or Work-Related Problems

62. Where an employee reveals that their absence has been a consequence of personal, domestic, or work related problems, the relevant manager should endeavour to discuss with them any relevant details that they wish to disclose. Although an employee may have genuine concerns about revealing sensitive or personal information, they should be reminded that such matters will be treated confidentially and that the Town Council cannot assist them if it is not made aware of the problem. If an employee wishes to discuss matters with someone other than the relevant manager, the Chair of the Resources Committee can be contacted for a confidential interview. Once the problem has been clearly identified, appropriate assistance can be offered to the employee. In some circumstances, special leave, temporary adjustments in working arrangements, or referral to specialist agencies may be granted.

Alcohol/Drug Dependency (please also refer to the Town Council alcohol and Drugs Policy)

63. Where an employee discloses that their absences are a consequence of alcohol- or drug-related problems, they will be encouraged to seek help and treatment voluntarily through the Council's Occupational Health Service or through resources of their own choosing. Employees may be granted, if necessary, leave to undergo treatment and any such leave will be regarded as sick leave within the terms of the Council's sick pay scheme, with the monitoring of progress by the Occupational Health Service.
64. Should an employee refuses or discontinues any programme of assistance designed for them, then any unacceptable behaviour or inadequate standard of work will be dealt with on its merits through the Town Council's Disciplinary Procedure.

Welfare

65. If, as a consequence of medically related absence, the relevant manager has any concerns about an employee's ability to undertake the full range of duties and responsibilities associated with their post, consideration should be given to suspending them with pay, or finding alternative duties whilst medical advice is sought from the Occupational Health Unit.

Monitoring

66. Monitoring is an important part of sickness absence. In order for reports to be issued to managers, it is important that all absence from the workplace is reported.

Appendix 1

All signed absence forms should be returned as soon as possible after the employee's Return to Work Interview has been conducted. The Town Clerk will ensure that an absence history is maintained for each employee. These records will provide the base data for the compilation, at regular intervals, of statistics showing the level of sickness absence across the Council, which will be reported at least annually to the Resources Committee.

- 67.** The sickness monitoring system will also enable the Town Clerk to identify individual cases where frequent or lengthy absences have occurred, or where patterns of absence have been identified. However, the manager should view such notifications as a secondary means of identifying problems or potential problems.
- 68.** The manager should ensure that they maintain comprehensive records at all times for each employee in relation to contact during and immediately following periods of sickness absence. These details should be maintained on the employee's personal file and should be treated with sensitivity and confidentiality at all times. Employees will be entitled to access these records on request.

APPENDIX 1 – RETURN TO WORK DISCUSSION

Name:				
Date of Interview:				
Time of Interview:				
Period of Sickness Absence:	From		To	
Number of Working Days Absent				

* Self Certificate / Doctors Certificate provided (*delete as appropriate) – Attached

Provide brief details of the content of the discussion:

Signed Date.....
 (Employee)

Signed Date.....
 Line Manager

**Iminster Town Council
Capability (Performance) Policy and Procedure
Approved by Council XXXX**



Policy

1. The aim of this Capability (Performance) Policy is to encourage and assist employees to improve their performance, rather than take punitive action against them. Accordingly, the Capability (Performance) Policy provides a fair and effective procedure to enable the Town Council to respond to unsatisfactory performance ensuring the necessary level of performance is achieved and the consequences of not doing so are clear.

Context with Other Policies and Procedures

2. This Capability (Performance) Policy and Procedure sets out a framework for resolving issues relating to poor performance, in accordance with the Employment Rights Act 1996, Human Rights Act 1998, and the ACAS Code of Practice on Disciplinary Procedures. The procedure aims to ensure that consistent and fair treatment is given to all individuals.
3. The Procedure is not a substitute for good management practices. It should only be invoked when initial attempts to improve performance have been unsuccessful following discussions between the employee and their manager.
4. The Disciplinary Policy and Procedure relates to matters regarding misconduct and negligence, this includes unauthorised absence, non-conformance with absence notification requirements, and persistently poor time-keeping. The Absence Management Policy and Procedure will be used for matters relating to sickness, disability, or ill health. It is feasible there will be overlap between two or more policies and procedures; in such cases The Town Clerk will consult with the Chair and Vice-Chair of the Resources Committee in determining which policy and procedure will be followed.
5. When using the procedure, it may be necessary to refer to the contents of other agreed documents such as:
 - The Equality and Diversity Policy
 - The Grievance Policy and Procedure
 - The Absence Management Policy
 - Other conditions set out in the Staff Handbook
6. The principles of support and encouragement to improve will apply to all employees, however the formal procedure only applies to employees who have been confirmed in their post, it does not apply during an employee's probationary period.
7. Action under this procedure against the Town Clerk or Responsible Financial Officer can only be taken by Members of the Town Council. In the event that a matter arises in respect of the Town Clerk and Responsible Financial Officer the matter will be referred to the Mayor, Chair and Vice-Chair of the Resources Committee. Those three people will agree on a course of action, including obtaining any advice that is required and the appointment of an appropriate liaison person. In the event that action may be warranted under the capability (performance) procedure the general provisions of this procedure will apply and any capability

meetings will be conducted by the Grievance, Capability and Disciplinary Committee

8. In normal circumstances no action will be taken against an officer of a recognised Trade Union until the matter has been discussed with a full-time officer of that union.
9. In most cases the stages in this procedure will be applied sequentially, however in rare cases it may be appropriate to skip or accelerate steps. In addition the town council reserves the right to put employees on paid leave during the process, where appropriate, for example paid leave may be appropriate where circumstances render an employee unproductive or where, in the Town Council's opinion, continued work presents unacceptable risk to the Town Council or the employee.
- 10.
11. This policy and procedure shall form part of the employee contract of employment and may be amended by the Town Council from time to time as required by law. Employees will be notified of any changes.

The Informal Procedure

12. The Line Manager should deal with minor issues of poor performance in the first instance.
13. A meeting with the employee to discuss poor performance should be arranged and any problems or areas for concern should be raised by the Line Manager. Appropriate support and training should be offered to assist the individual towards meeting the required standards in the future. Realistic targets should be agreed with the individual and future expectations made clear by the. The Line Manager will record the points discussed in the meeting and confirm this in writing to the employee along with the agreed plan to achieve acceptable levels of performance.
14. A review meeting should be arranged within 2 months to assess whether the targets have been met and whether the performance is satisfactory.
15. In most cases, these meetings should provide sufficient guidance, support, and clarification of standards to rectify the situation.

The Formal Review

16. The formal procedure will apply when:
 - Previous informal advice or guidance has proved ineffective; or
 - The performance is so poor that informal discussions are unlikely to help.
17. If informal discussions have proved unsuccessful in raising performance levels to the standards set by the Line Manager then the formal procedure will be invoked. There are three stages to the formal procedure. The employee has the right of representation at each stage.
18. During each stage, the employee's performance will be monitored closely. The method of doing this will be made clear to them at the conclusion of each review meeting.
19. Due to the potentially sensitive nature of Capability Review, Councillors in general will not be informed of action being taken under the Capability (Performance) Policy and Procedure. The Town Clerk will inform only the Chair of the Resources Committee, who will treat the information with sensitivity and confidentiality, that action is being taken under the policy and procedure and the information provided

by the Town Clerk will be the name of the employee and the nature of the performance concern

20. The Chair of the Resources Committee will not be a member of the Grievance, Capability and Disciplinary Committee or the Appeals Committee so as to avoid any potential conflicts of interest with this Policy and Procedure.

Stage 1: The Capability Review

21. The Capability Review should build on the informal discussions. It should be sufficiently specific so that the employee knows exactly what it is about their performance that is unsatisfactory and how they can improve to the required standard.
22. The Town Clerk will carry out the Review.
23. The employee will be invited in writing, a minimum of 5 working days before the Review date, to attend the Review.
24. The employee has the right to be accompanied at the Stage 1 hearing by a trade union representative or a work colleague
The review has four main purposes:
25. To allow the Town Clerk to discuss with the employee: (i) the standards of work required; (ii) what improvement is necessary; (iii) how the employee can be helped to achieve them; and (iv) how improvement will be assessed and the timescale which must be reasonable.
 1. To allow the employee to: (i) obtain a clear understanding of what is expected of them; (ii) give an explanation or comment on their work; and (iii) give their views on how the problem can best be tackled.
 2. To allow the Town Clerk and the employee to explore other options, such as: (i) additional instruction, training, or personal development activity; or referral to occupational health, which may involve alternative action under the Council's Absence Management Policy. Please refer to the Absence Management Policy.
 3. To make clear to the employee: (i) the timescale for improvement; (ii) how and by whom their work will be monitored during the review period; and (iii) the consequences if their work does not improve or if improvement is not maintained.
26. Ideally, standards of performance should be agreed between the Town Clerk and employee. However, in the absence of such an agreement, the Town Clerk must satisfy himself or herself that any targets set are reasonable and non-discriminatory. If training has already been given then its effectiveness should be reviewed and any further training and support agreed.
27. If the Town Clerk is satisfied at the conclusion of the review that there is a shortfall in performance, the employee will be issued with a formal warning and an action plan, including timescales, to achieve. It will also be made clear that failure to achieve the action plan will lead to the next stage of the formal procedure. The length of time given to improve will depend on the nature of the job and the performance gap but in normal circumstances it should not be more than 3 months.
28. A letter to confirm the outcome of the meeting and a copy of the action plan should be sent to the employee within 5 working days,
 - . The documents sent will contain the following information:
 - a summary of the performance problem

- a personal Improvement Plan outlining the improvement that is required and the timescale for achieving the improvement
 - a review date (usually within 3 months)
 - any support that the Town Council will provide to assist the employee e.g. training
 - The period during which any warning will remain “live”
 - the next stage of the process should performance not reach the required standard
 - the employee’s right to appeal against any warning issued.
29. Where the employee’s companion is not available on the originally scheduled date, the employee may request an alternative date and time, so long as it is reasonable and it is not more than five working days after the original date.
30. The employee should take all reasonable steps to attend the capability review meeting. If the employee fails to attend, with good reason, the meeting will be rescheduled. Should the employee either fail to attend the first meeting without reason or the second meeting, with or without a reason, the meeting may proceed in their absence.

Stage 2 – The Capability Review

31. If the employee fails to achieve the standards or the timescales set out in the action plan at Stage 1 then Stage 2 of the procedure is invoked. This involves a further review based on the same structure as Stage 1.
32. Stage 2 of the Capability Review will be conducted by the Town Clerk.
33. The employee will be invited in writing, a minimum of 5 working days before the Review date, to attend the Review.
34. The employee has the right to be accompanied at the Stage 2 hearing by a trade union representative or a work colleague.
35. If The Town Clerk concludes at the end of the Review meeting that there is still a performance issue to be addressed, a further formal warning should be issued along with an action plan giving details of the standards of performance required and the timescales within which these must be achieved. The employee should be reminded that if the action plan is not achieved, then Stage 3 will be invoked. It needs to be made clear that Stage 3 may result in a decision to dismiss the employee. Again, the length of time given to improve will depend on the nature of the job and the performance gap but in normal circumstances should not be more than 3 months.
36. A letter to confirm the outcome of the meeting and a copy of the action plan should be sent to the employee within 5 working days,
- . The documents sent will contain the following information:
- a summary of the performance problem
 - a personal Improvement Plan outlining the improvement that is required and the timescale for achieving the improvement
 - a review date (usually within 3 months)
 - any support that the Town Council will provide to assist the employee e.g. training
 - The period during which any warning will remain “live”
 - the next stage of the process should performance not reach the required standard

- the employee's right to appeal against any warning issued.
37. Where the employee's companion is not available on the originally scheduled date, the employee may request an alternative date and time, so long as it is reasonable and it is not more than five working days after the original date.
 38. The employee should take all reasonable steps to attend the capability review meeting. If the employee fails to attend, with good reason, the meeting will be rescheduled. Should the employee either fail to attend the first meeting without reason or the second meeting, with or without a reason, the meeting may proceed in their absence.

Stage 3 – The Final Capability Review

39. The Final Capability Review will be undertaken by three members of the Grievance, Capability and Disciplinary Committee.
40. The employee will be invited in writing, a minimum of 5 working days before the Review date, to attend the Review
41. The employee has the right to be accompanied at the Stage 3 hearing by a trade union representative or a work colleague
42. The Town Clerk who conducted Stages 1 and 2 should also be present to provide details of the previous review meetings and of the steps taken to encourage improvement in the employee's performance.
43. The employee will have the opportunity to respond and put forward any points they wish to be considered.
44. The Capability Review Panel may have an Advisor in attendance, whose role is to give advice on issues of procedure, conditions of employment and employment legislation. The Advisor is not part of the decision making process although he or she may be attend during the decision making discussions to give advice.
45. Arrangements will be made for an independent person (that is independent of the management of monitoring of the situation under consideration) to take written notes of the meeting. Tape recordings are not permitted by either party.
46. Consideration should be given to any alternatives to dismissal, such as redeployment or options of downgrading. However, this may not always be possible and will depend on each individual situation and the circumstances of the organisation.
47. The Committee must satisfy themselves that they have heard all of the relevant information and that the employee has been given sufficient opportunity to improve. If they consider that the employee's performance remains unsatisfactory, they must inform the employee that their employment is terminated on the grounds of capability or any alternatives to dismissal.
48. The employee's dismissal will be with notice or, if serving their notice period is not in the interests of the Council, they will receive pay in lieu of notice. The dismissal must be confirmed in writing within 5 working days, stating the reasons for it, and informing the employee of their right of appeal.
49. Where the employee's companion is not available on the originally scheduled date, the employee may request an alternative date and time, so long as it is reasonable and it is not more than five working days after the original date.
50. The employee should take all reasonable steps to attend the capability review meeting. If the employee fails to attend, with good reason, the meeting will be rescheduled. Should the employee either fail to attend the first meeting without

reason or the second meeting, with or without a reason, the meeting may proceed in their absence.

The Right of Appeal

51. Employees have the right to appeal against any decision to issue a formal warning or dismissal under this procedure.
52. Appeals must be made in writing (email is acceptable) and set out the grounds on which the appeal is made.
53. The Town Clerk must receive the appeal within 10 days of the date of the letter informing the employee of the outcome of the Capability Review.
54. Three members of the Appeal Committee will hear the appeal.
55. The employee will be invited in writing, a minimum of 5 working days before the appeal date, to attend the Appeal.
56. The employee has the right to be accompanied at the appeal hearing by a trade union representative or a work colleague
57. The appeal will take place as soon as is practically possible. The Appeal Panel will consider the details of the poor performance presented by the Town Clerk and will consider the comments of the employee.
58. The Appeal Panel may have an Advisor in attendance, whose role is to give advice on issues of procedure, conditions of employment and employment legislation. The Advisor is not part of the decision making process although he or she may be attend during the decision making discussions to give advice.
59. Arrangements will be made for an independent person (that is independent of the management of monitoring of the situation under consideration) to take written notes of the meeting. Tape recordings are not permitted by either party.
60. Where the employee's companion is not available on the originally scheduled date, the employee may request an alternative date and time, so long as it is reasonable and it is not more than five working days after the original date.
61. The employee should take all reasonable steps to attend the capability review meeting. If the employee fails to attend, with good reason, the meeting will be rescheduled. Should the employee either fail to attend the first meeting without reason or the second meeting, with or without a reason, the meeting may proceed in their absence.
62. The decision of the Appeal Committee is final.

Training

63. Appropriate training will be given to the Town Clerk or any Councillors who might be involved in capability or appeals meetings to ensure that they are able to fulfil their responsibilities under this procedure.

Note: Any Stage 3 capability Review or Appeal Hearing is a meeting of the Grievance, Capability and Disciplinary Committee or Appeals Committee and as such is a formal meeting of the Council and therefore must be properly convened with the issue and publication of agendas and minutes.