



LEDBURY
TOWN COUNCIL

Ledbury Town Council Capability Procedure

Policy Statement

This policy has been prepared considering prevailing legislation and recognised good practice. New legislation requirements or changes in current legislation may necessitate the review of this policy document. The Council will continue to review and amend all or part of this policy on a regular basis.

Equality

In putting this procedure into practice, no aspect of this procedure will discriminate on the grounds of race, sex, sexual orientation, gender reassignment, age, religion, politics, marital status, disability and/or union membership or any other grounds likely to place anyone at a disadvantage, in accordance with the Equality Act 2010.

Introduction

The aim of this procedure is to ensure that employees whose performance is unsatisfactory due to lack of skill, knowledge, experience or aptitude are treated fairly, whilst maintaining the high operating standards of Ledbury Town Council.

The Capability procedure **MUST** be followed when problems arise which call into question the capability of an employee to perform duties which he/she was employed to undertake.

A clear distinction needs to be made between sub-standard performance, which is due to negligence, and that which is due to the lack of ability, skill, knowledge, experience or aptitude. Negligence will usually involve some measure of personal responsibility in that the employee is capable of doing his or her job, but the level of performance is inadequate. Issues of this nature should be handled through the stages of the disciplinary procedure. Lack of skill, knowledge, experience or aptitude should be treated from a different viewpoint.

The Capability Procedure is intended to compliment Ledbury Town Council's Appraisal Scheme, Sickness Absence Procedure and be used as part of its' Performance Management Responsibility.

Responsibility

Ledbury Town Council requires high standards from its' employees in order to provide an efficient and effective service to its clients/customers etc.

Managers have a responsibility to make clear to employees the standards required of them in terms of work performance and objectivities. Employees have the responsibility to achieve and maintain these standards.

Ledbury Town Council will endeavour to ensure that all employees are adequately trained and competent to undertake their duties. Where these standards are not satisfied, support will be offered to achieve the appropriate standards where informal methods are not successful.

The procedure provides a framework for dealing with lack of capability related to an individual's competence to meet the required standards of performance, on a fair and consistent basis, and aims to improve individual effectiveness using a problem-solving approach. Help, advice, opportunity and time will be given to the employee in order for them to improve their performance and meet the standards required.

The Procedure applies to all staff directly employed by Ledbury Town Council.

Unacceptable performance arising from deliberate or wilful lack of care, attention, or negligence rather than as a result of the lack of necessary skills or aptitude will be addressed appropriately through Ledbury Town Council's Disciplinary Procedure.

Causes of Poor Performance

Unacceptable performance may be due to lack of skill, aptitude, experience, knowledge, poor health (physical and mental health) all of which can affect the capability of the individual to perform their job satisfactorily. Such problems can occur through:

- Unsatisfactory application of the recruitment and selection process
- Lack of proper training and development, to allow the employee to achieve the required standards. This should be reviewed regularly, at least annually, as part of the Appraisal Scheme to meet changing demands.
- Insufficient understanding of the role the employee is expected to perform due to poor or inadequate guidance or induction.
- The employee not having the range of experience, skills, or knowledge necessary to perform effectively in their role.
- The employee's working conditions and/or access to equipment/information which may be such as to impair the efficient performance of their duties.
- Inadequate staffing levels and skill mix.
- Issues associated with an individual's domestic situation. Employees should be supported appropriately and sensitively depending on the issues.
- Harassment or bullying. Action will be taken under the appropriate Ledbury Town Council Policy(s).

(This list is not exhaustive)

Informal Stage

Before resorting to the formal procedure, the manager will ensure that proper guidance, advice and, where appropriate, training has been given and that adequate time has been allowed for the employee to overcome the difficulties that they have been experiencing.

Where an employee's ability to perform the duties of his/her post satisfactorily is in question, their manager will discuss the matter first informally at a 1:1 meeting (either a Let's Talk, a Supervision, or an Appraisal).

The nature of the problem will be described, and reasons explored. The employee will be given an opportunity to give an explanation for the unsatisfactory performance. An action plan to address unsatisfactory performance will be developed and agreed jointly with the employee. The action plan will address the causes and will include the following:

- Make the employee aware of the standards to be addressed.
- Clarify tasks to be completed.
- Set a realistic timescale for improvement.
- Identify necessary training and/or supervision.
- Include regular monitoring meetings.
- Clarify the appropriate method of monitoring performance.

A **Performance Improvement Plan** template is below:

Define the Task, skill or competence that needs to be reviewed or improved	Improvement needed and the standard expected	Monitoring period and date for review	Additional information, support or training required, by whom, by when

Signed by employee: _____ Date: _____

Signed by line manager: _____ Date: _____

The broad content of the meeting and all the actions required to take will be confirmed in writing, either through notes or email follow up. The employee will also be informed of the possible implications of not achieving the required standards. A record will also be kept of any monitoring meetings as they may need to be referred to at a later stage.

A review meeting will be held at the end of the agreed timescale. If satisfactory improvement is achieved and maintained, no further action will be taken, and performance will continue to be monitored as part of the usual 6 month and 12-month Appraisal Scheme.

If standards have not been achieved and/or maintained, the reasons will be explored and consideration given to extending the time period, if appropriate. Otherwise, the employee will be invited to attend a formal Capacity Hearing.

Rights of the Employee

The employee will have full access to a copy of the Capacity Procedure at the informal stage.

- Senior Managers/Chair of Resources will manage and chair any formal meetings from this point on.
- Employees have the right to be accompanied at formal hearings by a Trade Union Representative, colleague or friend who is not acting in a legal capacity. It is the employee's responsibility to obtain representation, colleague or friend.
- The employee will be given reasonable written notice of the hearing, setting out the date, time, venue, nature of unsatisfactory performance being considered and their right to representation. At least five working days' notice will be given to enable the employee to prepare their case and to arrange representation.
- The employee will be given copies of written statements, and relevant documents.
- The employee has the right of appeal against formal warnings imposed.

Formal Capability Procedure

While the principal objective of the Capability Procedure is to help an employee overcome their difficulties, it is nevertheless essential that they are made fully aware of the consequences of not achieving and maintaining the standards set.

The formal capability procedure will comprise of the following stage:

- Stage 1 – First written warning (letter – live for 6 months)
- Stage 2 – Second Written warning (kept live on file for 6 months)
- Stage 3 – Final Written warning (kept live on file for 12 months)
- Stage 4 – Dismissal

Consideration will be given to the causes of unacceptable performance together with what help, and support has been offered in the past and what more the employee can reasonably expect in order to overcome their difficulties and in what timescales.

In handling unacceptable performance any warnings will normally be issued progressively, however depending on the circumstances a written warning or a final written warning may be issued without any previous action having been taken under the Capability Procedure. This will most commonly occur where the unacceptable performance is likely to have serious consequences on service delivery or the financial security of Ledbury Town Council is at risk and the level of performance cannot be remedied by training in a reasonable period.

Suspension from duty or temporary transfer to other duties, or redeployment or demotion may be required in such exceptional circumstances.

Outcomes

Any warning given will be by a Senior Manager/Chair of Resources.

Any warning given will normally last three months to allow sufficient time for improvement. However, these periods may be longer or shorter depending on the circumstances.

In circumstances where a warning has proved ineffective and an improvement in performance seems unlikely, the employee should be encouraged to seek alternative employment where it is both suitable and available.

Where alternative employment is offered within Ledbury Town Council, the employee will receive a formal written offer giving details of the alternative employment and the duties required in it for consideration, before either party commit themselves to the new job contractually. It will be made clear that they are expected to reach the required standard of performance within an agreed period otherwise the Capability Procedure will be once again invoked.

Alternative employment, if offered as an alternative to dismissal, does not have to be equivalent to the current post nor be at the employee's current level/pay. There will be no right for the employee to have their current earnings level protected.

Refusal of redeployment or demotion will result in termination of employment in line with provision of notice periods contained within the employees contract.

All decisions will be confirmed in writing to the employee within 3 working days of the hearing.

Copies must be retained by the Manager for the agreed review period as well as being placed on the personnel file.

No employee will be dismissed for the first discussion about their performance.

Review and Monitoring Period

The Senior Manager who issued the warning will ensure that the terms of the review and monitoring period are adhered to. They need to undertake this themselves or delegate it to the employee's manager.

The Review will be conducted in a manner which encourages the employee to improve. The employee will be encouraged to discuss areas of concern as they arise during the course of the review period.

At the end of the review and monitoring period, if the manager is satisfied that the employee has reached the required standard of performance, then they will confirm this in writing to the employee, their representative (if applicable) and retain a copy on the employee's personnel file. The letter will contain a reminder that the performance level reached **MUST** be maintained.

In the event that the employee fails to reach the required standard of performance at the end of the review period, then a further formal hearing will be arranged under the terms of the Capability Procedure.

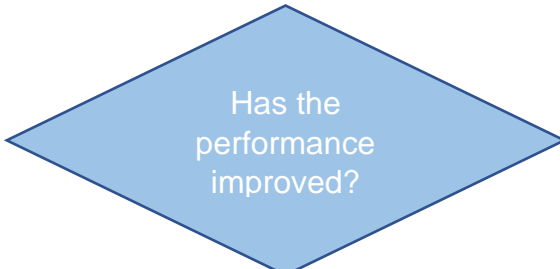
In exceptional circumstances, where the manager gathers evidence to show that in spite of warnings and counselling, the employee is failing to reach the required standard of performance, then the review date may be brought forward.

Any records relating to warnings in a personnel file will not be viewed as current after a period of 1 year from the date that they were imposed.

Appeals

All employees have the right of appeal against all warnings.

Meet with the employee to informally address performance concerns. Identify issues, discuss possible solutions, create a performance improvement plan (PIP). Advise employee their performance will be monitored over a review period, and that failure to improve could trigger a formal procedure.



Yes

Remind the employee of the importance of maintaining these standards.

End of procedure

No

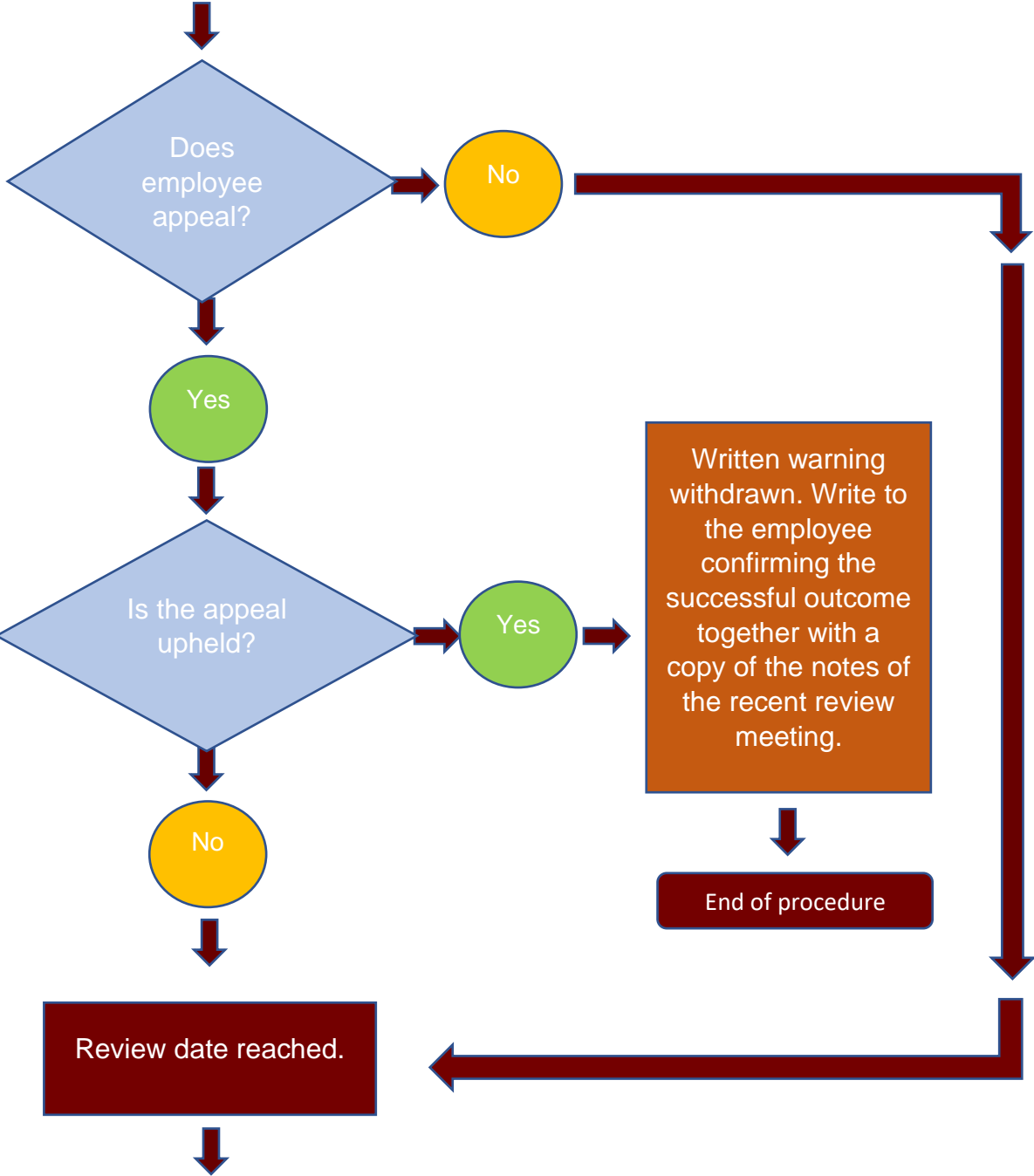
Meet with the employee to discuss why performance has not improved. Confirm formal procedure will now begin.

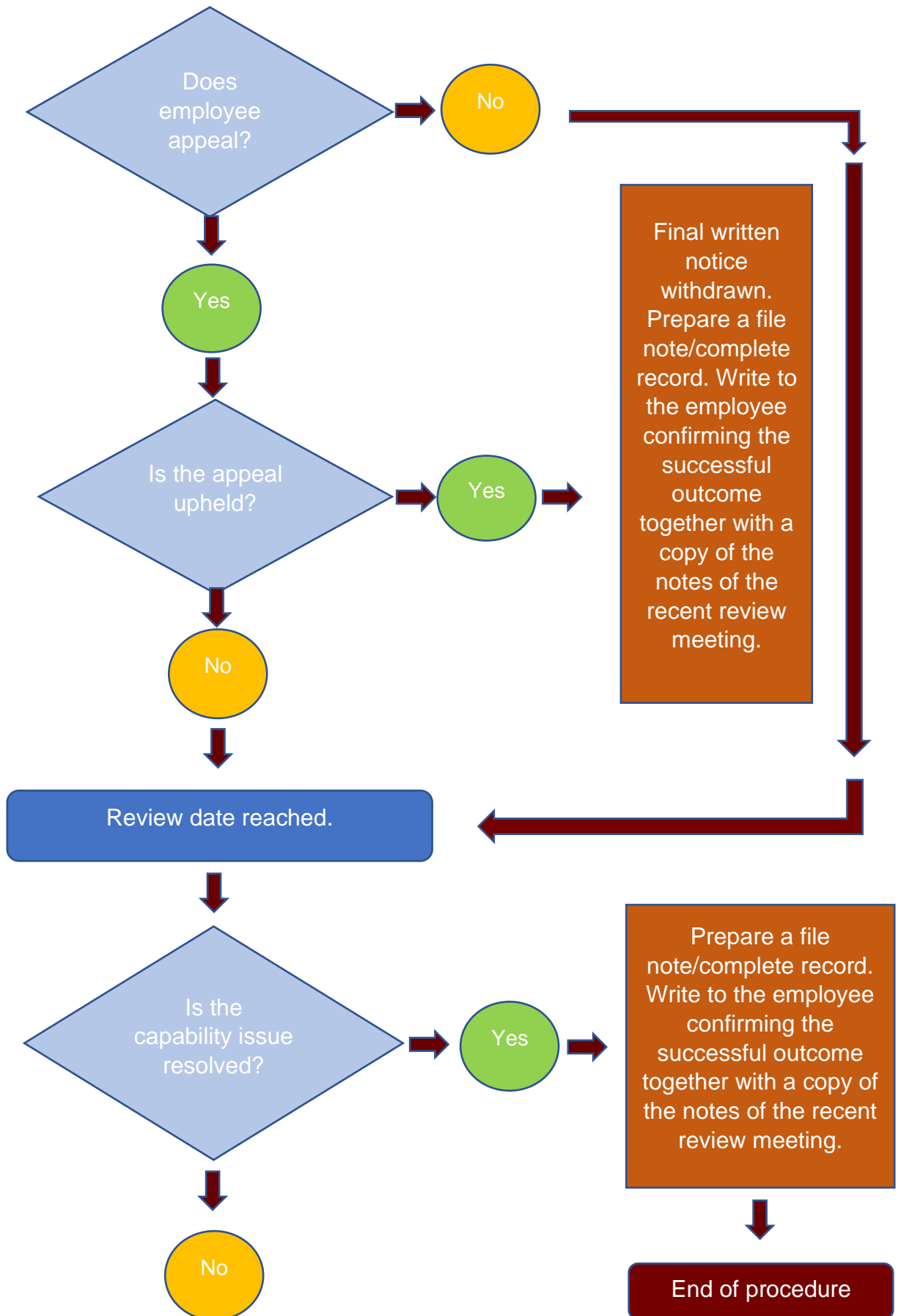
Invite employee, in writing, to a meeting. Provide sufficient information about the performance problem including written notes from the recent review meeting. The letter will state that the capability procedure is being followed and that they have the right to be accompanied.

At meeting, explain the reasons for the meeting. Give the employee the opportunity to discuss the issues and highlight any extenuating circumstances. Any support requirements should be discussed and agreed.

Issue written warning. This sets out:

- The continuing capability difficulties
- The improvement required where this may be possible
 - Timescale for improvement
- Consequences of failure to improve
 - Any assistance to be provided
 - A review date
 - The right to appeal





Invite employee, in writing, to a meeting. Provide sufficient information about the continued performance issue and include written notes from the recent review to allow them to prepare for the meeting. The employee has the right to be accompanied.



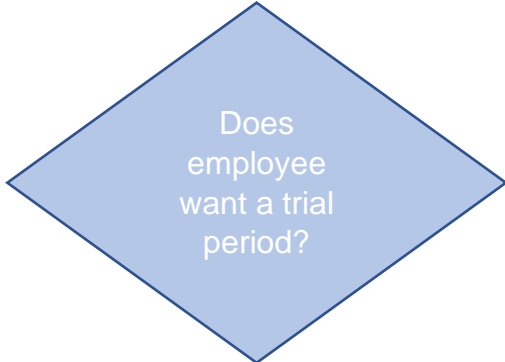
At meeting, explain reasons for the meeting. Give the employee the opportunity to discuss the issues and highlight any extenuating circumstances. Any support requirements provided during the process should be discussed.



No



Yes



No



Yes



