



# Stretton Pre-school

## Capability policy and procedure

The primary aim of this procedure is to provide a framework within which Stretton Pre-school can work with employees to maintain satisfactory performance standards and to encourage improved performance where necessary. Stretton Pre-school recognises the difference between a deliberate or careless failure on the part of an employee to perform to the standards of which they are capable (in which case the organisation will use the disciplinary procedure) and a case of incapability, where the employee is lacking in knowledge, skill or ability and so cannot perform to the standard required (in which case Stretton Pre-school will use this capability procedure in an attempt to improve the employee's performance).

Stretton Pre-school also recognises that during an employee's employment capability to carry out their duties may deteriorate. This can be for a number of reasons; the most common ones being that either the job changes over a period of time and the employee fails to keep pace with the changes or the employee changes and can no longer cope with the work.

This capability procedure is **entirely non-contractual** and does not form part of an employee's contract of employment.

### 1. REDUCING THE RISK OF CAPABILITY PROBLEMS ARISING

To minimise the risk of a capability problem occurring, managers should ensure that:

- Job descriptions are an accurate reflection of the job.
- Person specifications are clearly related to job descriptions and specify objective criteria which should form the basis for recruitment, selection and performance criteria.
- Recruitment and selection is thorough to ensure that only those with the necessary skills, abilities and competencies are appointed.
- New appointees receive thorough and appropriate training and support.
- Standards of work performance are set and arrangements are in place for appropriate training in line with the appraisal system.
- Work performance is carefully monitored on an on-going basis to pick up on any specific training or development needs.
- The required standard of work is communicated to the employee so that they know what is expected of them.
- Performance is discussed regularly with each employee individually.

- Following promotion or redeployment the employee is made aware of the standards of performance expected in the new position and any training needs are identified in line with the appraisal system.

## 2. APPLICATION OF THIS POLICY AND PROCEDURE

- 2.1 Minor capability issues will be dealt with informally through counselling and training. Informal discussions may be held with a view to clarifying the required work standards and the level of performance expected of the employee, identifying areas of concern, establishing the likely causes of poor performance, identifying any training or supervision needs, setting targets for improvement and agreeing a time-scale for review. However, in cases where informal discussion with the employee does not lead to a satisfactory improvement in performance, or where the performance issues are more serious, the following capability procedure will be used. At all stages of the procedure, an investigation will be carried out.
- 2.2 At all stages Stretton Pre-school will give consideration to whether the unsatisfactory performance is related to a disability and, if so, whether there are any reasonable adjustments that could be made to the requirements of the employee's job or other aspects of the working arrangements.
- 2.3 Stretton Pre-School will notify the employee in writing of the concerns over performance and will invite the employee to a performance review meeting to discuss the matter. Stretton Pre-school will provide sufficient information about the poor performance and its possible consequences to enable the employee to prepare to answer the case. This will include the provision of copies of written evidence where appropriate.
- 2.4 Having given the employee reasonable time to prepare their case, a formal capability meeting will then take place, conducted by a manager, at which the employee will be given the chance to state their case, accompanied if requested by a trade union official or a fellow employee of their choice. The employee must make every effort to attend the meeting.
- 2.5 The purposes of the performance review meeting include: to set out the required standards that Stretton Pre-school considers the employee has not met, to establish the likely causes of poor performance (including any reasons why any measures taken so far have not led to the required improvement) and to allow the employee the opportunity to explain the poor performance and to ask any relevant questions. Except in the case where dismissal is proposed, the purposes of the performance review meeting also include: to discuss measures, such as additional training or supervision, which may improve the employee's performance, to set targets for improvement and to set a reasonable timescale for review (reflecting the circumstances of the case).

- 2.6 In a case where dismissal is proposed, the purposes of the performance review meeting also include: to establish whether there are any further steps that could reasonably be taken to rectify the employee's poor performance, to establish whether there is any reasonable likelihood of the required standards of performance being met within a reasonable time and to discuss whether there is any practical alternative to dismissal, such as redeployment to any suitable available job at the same or lower grade.
- 2.7 Following the performance review meeting, Stretton Pre-school will decide whether or not formal performance action is justified and, if so, the employee will be informed in writing of Stretton Pre-school's decision in accordance with the stages set out below and notified of their right to appeal against that decision.

### **3. STAGE 1: PERFORMANCE WARNING**

- 3.1 The employee will be given a formal PERFORMANCE WARNING. This will set out the areas in which the employee has not met the required performance standards, targets for improvement, any measures, such as additional training or supervision, which will be taken with a view to improving the employee's performance, a timescale for review and the likely consequences of failing to improve to the required standards within the review period. The performance warning will be recorded but nullified after six months, subject to satisfactory performance.
- 3.2 The employee's performance will be monitored and, at the end of the review period, Stretton Pre-school will write to the employee to advise him or her of the next step. If Stretton Pre-school is satisfied with the employee's performance, no further action will be taken. If Stretton Pre-school is not satisfied with the employee's performance, the matter may be progressed to Stage 2 or, if Stretton Pre-school feels that there has been a substantial but insufficient improvement, the review period may be extended.

### **4. STAGE 2: FINAL PERFORMANCE WARNING**

- 4.1 A second formal capability meeting will then take place, conducted by a manager, at which the employee will be given the chance to state their case, accompanied if requested by a trade union official or a fellow employee of their choice. The employee must make every effort to attend the meeting.

Failure to improve performance in response to the procedure so far, or a first instance of serious poor performance, will result in a FINAL PERFORMANCE WARNING being issued. This will set out the areas in which the employee has still not met the required performance standards, targets for improvement, any further measures, such as additional training or supervision, which will be taken with a view to improving the employee's performance, a further timescale for review and the likely consequences of failing to improve to the required standards within the further review period, i.e. that dismissal will probably result. The final performance warning will be recorded but nullified after twelve months, subject

to satisfactory performance.

- 4.2 The employee's performance will again be monitored and, at the end of the further review period, Stretton Pre-school will write to the employee to advise them of the next step. If Stretton Pre-school is satisfied with the employee's performance, no further action will be taken. If Stretton Pre-school is not satisfied with the employee's performance, the matter may be progressed to Stage 3 or, if Stretton Pre-school feels that there has been a substantial but insufficient improvement, the review period may be extended.

## **5. STAGE 3: DISMISSAL**

- 5.1 A third and final capability meeting will then take place, conducted by a manager, at which the employee will be given the chance to state their case, accompanied if requested by a trade union official or a fellow employee of their choice. The employee must make every effort to attend the meeting.

Failure to improve performance in response to the procedure so far will normally lead to DISMISSAL, with appropriate notice. Stretton Pre-school may first consider redeploying the employee with their agreement to another available job at the same or lower grade which is more suited to their abilities. A dismissal decision will only be made after the fullest possible investigation. Dismissal can be authorised only by a senior manager or a Director/Trustee. The employee will be informed of the reasons for dismissal, the appropriate period of notice, the date on which their employment will terminate and how the employee can appeal against the dismissal decision.

## **6. APPEALS**

- 6.1 An employee may appeal against any decision under this capability procedure, including dismissal, to a Director/Trustee of Stretton Pre-school within five working days of the decision. Appeals should be made in writing and state the grounds for appeal. The employee will be invited to attend an appeal meeting chaired by a senior manager or a Director/Trustee.

At the appeal meeting, the employee will again be given the chance to state their case and will have the right to be accompanied by a trade union official or a fellow employee of their choice.

Following the meeting, the employee will be informed in writing of the appeal decision. Stretton Pre-school's decision on an appeal will be final.

## **7. EMPLOYEES WITH SHORT SERVICE**

- 7.1 This capability procedure does not apply to any employee who has been employed by Stretton Pre-school for less than two years (after 6 April 2012).

## **8. DATA PROTECTION**

In the implementation of this policy, the organisation may process personal data and/or special category personal data collected in accordance with its GDPR and data protection policy. Data collected from the point at which this policy is invoked will only inform the organisation for the benefit of implementing this policy. All data is held securely and accessed by, and disclosed to, individuals only for the purposes of this policy. Inappropriate access or disclosure of employee data constitutes a data breach and should be reported in accordance with the organisation's GDPR and data protection policy immediately. It may also constitute a disciplinary offence, which will be dealt with under the organisation's disciplinary procedure.

This policy was adopted by

Stretton Pre-School

On

08/11/2022

Date to be reviewed

Annually

Signed on behalf of the provider

*E. Greenfield*

Name of signatory

Emily Greenfield

Role of signatory

Chair person

