



Capability Procedure

New Policy

Date of adoption	Pending - Full Council 18 th March 2026, Minute number 26/03()
Reviewed	
Next Review Date	As required
Reviewed By	Policy & Resources Committee 11 th February 2026

Capability Procedure

INTRODUCTION

Newton Abbot Town Council recognises that during your employment your capability to carry out your 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 you fail to keep pace with the changes, or you change (most commonly because of health reasons) and you can no longer cope with the work.

This procedure is designed to support, enhance, and improve the performance of employees. It provides a clear framework for managing issues related to poor performance, in line with the Employment Rights Act 1996, the Human Rights Act 1998, and the principles set out in the ACAS Code of Practice on Disciplinary and Grievance-Procedures.

The aim of this procedure is to ensure that all employees are treated fairly, consistently, and transparently.

JOB CHANGES/GENERAL CAPABILITY ISSUES

- 1) If the nature of your job changes or if we have general concerns about your ability to perform your job, we will try to ensure that you understand the level of performance expected of you and that you receive adequate training and supervision. Concerns regarding your capability will normally first be discussed in an informal manner and you will be given time to improve.
- 2) If your standard of performance is still not adequate you will be warned in writing that a failure to improve and to maintain the performance required could lead to your dismissal. We will also consider the possibility of a transfer to more suitable work if possible.
- 3) If there is still no improvement after a reasonable time and we cannot transfer you to more suitable work, or if your level of performance has a serious or substantial effect on our organisation or reputation, you will be issued with a final warning that you will be dismissed unless the required standard of performance is achieved and maintained.
- 4) If such improvement is not forthcoming after a reasonable period of time, you will be dismissed with the appropriate notice.

PERSONAL CIRCUMSTANCES/HEALTH ISSUES

- 1) Personal circumstances may arise which do not prevent you from attending for work but which prevent you from carrying out your normal duties (e.g. a lack of dexterity or general ill health). If such a situation arises, we will normally need to have details of your medical diagnosis and prognosis so that we have the benefit of expert advice. Under normal circumstances this can be most easily obtained by asking your own doctor for a medical report. Your permission is needed before we can obtain such a report and we will expect you to co-operate in this matter should the need arise. When we have obtained as much information as possible regarding your condition and after consultation with you, a decision will be made about your future employment with the Council in your current role or, where circumstances permit, in a more suitable role.

- 2) There may also be personal circumstances which prevent you from attending work, either for a prolonged period(s) or for frequent short absences. Under these circumstances we will need to know when we can expect your attendance record to reach an acceptable level. This may again mean asking your own doctor for a medical report or by making whatever investigations are appropriate in the circumstances. When we have obtained as much information as possible regarding your condition, and after consultation with you, a decision will be made about your future employment with the Council in your current role or, where circumstances permit, in a more suitable role.

SHORT SERVICE STAFF

The Council will retain discretion in respect of the capability procedures to take account of your length of service and to vary the procedures accordingly. If you have a short amount of service (less than 2 years) you may not be in receipt of any warnings before dismissal.

Legislation and Links to other policies:

[Employment Rights Act 1996](#)

[Human Rights Act 1998](#)

[ACAS Code of Practice on Disciplinary and Grievance-Procedures](#)

[Disciplinary Procedure](#)

[Grievance Procedure](#)

[Leave Policy](#)

Capability Procedure – Quick Reference Guide

Governance and Delegation

The procedure confirms that:

- The Town Clerk manages the informal stage and the first two formal stages.
- The Chairperson of the Staffing Committee supports Stage 3.
- Appeals are heard by three members of the Staffing Committee, with an independent adviser, ensuring impartiality and good governance.

This reflects the governance requirements set out in the Council's Disciplinary Procedure.

Informal Stage – First Step

- Meet with the Town Clerk to discuss performance concerns.
- Support/training offered; targets and expectations set.
- Written action plan issued.
- Follow up review within 2 months.
- If improvement occurs → Procedure ends.
- If not → Move to Formal Stage.

Formal Procedure – Three Stages: You may bring a trade union representative or workplace colleague to all formal meetings.

Stage 1 – Capability Review

- Formal performance review meeting with the Town Clerk.
- Review issues and support required.
- Formal written warning issued and action plan agreed (up to 2 months).

Outcome:

- Improvement → Procedure ends.
- No improvement → Stage 2.

Stage 2 – Capability Review

- Same structure as Stage 1.
- Further formal warning issued if problems remain.
- Consider alternatives such as redeployment/downgrading.
- New action plan and timescale (up to 2 months).
- Written warning with right of appeal.

Outcome:

- Improvement → Procedure ends.
- No improvement → Stage 3.

Stage 3 – Final Capability Review

- Final review meeting with the Town Clerk and the Chairperson of the Staffing Committee

Possible outcomes:

- Redeployment/downgrading.
- Dismissal (written confirmation within 5 days).

Appeals

- You may appeal any warning or dismissal.
- Appeal within 10 days.
- Heard by three members of the Staffing Committee (not previously involved), with an independent adviser.
- Decision is final.