

Not Protectively Marked

Office of Police & Crime Commissioner – Devon & Cornwall Policy Cover Sheet

Policy Name:	Capability Policy (Formerly Disciplinary & Incapability Policy)
Version Number:	Version 3 Final
Date:	28 May 2014
Policy Author:	Claire Mead
Policy Authorised by:	Andrew White
Policy Sign off Date:	28 May 2014
Policy Sign off - signature	
Policy Signed off by:	Andrew White – Chief Executive
Cover note:	<p>This policy sets out the high level principles and ethos around the management of capability at work and is based on the existing version held by Devon & Cornwall Police (D&CP).</p> <p>D&CP are currently putting all their people management policies into the new Force template style and reviewing content in terms of legislative changes, terminology and bringing them up to date. This policy is based on the revised D&CP version, recently consulted on with stakeholders and Partnership Group, with agreement reached to close consultation and for the policy to be uploaded.</p> <p>It was proposed the previous Police Authority (PA) operating procedures remain in place from a practical implementation of policy perspective. Please note: Exceptionally in this case the PA procedure has been withdrawn and, until such time as an Office of Police & Crime Commissioner (OPCC) procedure is developed/in place, the OPCC will refer to the principles of the D&CP procedure for handling cases that fall within the attendance management/capability remit.</p>
EIA status:	Policy will require EIA from the OPCC perspective.

Not Protectively Marked

Office of Police & Crime Commissioner – Devon & Cornwall Capability Policy

Version dated: 28 May 2014

1.0 Contents List [FOIA Open]

- 1.0 Contents List
- 2.0 Policy Statement
- 3.0 Introduction
- 4.0 Principles/Ethos of the Policy
- 5.0 Audit/Assessment Compliance
- 6.0 Review and Ownership
- 7.0 Useful Links

2.0 Policy Statement [FOIA Open]

- 2.1 Public confidence in the police, in part, depends on those in its employ demonstrating the highest possible standard of service delivery.
- 2.2 The Office of Police & Crime Commissioner (OPCC) is committed to the ongoing development of all staff enabling them to achieve their full potential and to support the organisational aim; to support the police service in reducing crime/the fear of crime and contribute to the delivery of justice and bring about safer communities.

3.0 Introduction [FOIA Open]

- 3.1 The OPCC's 'people management' policies reflect the organisation's commitment to its staff, and are underpinned by the highest standards of integrity. They provide a high-level set of principles, which are supported by procedures, working practices and guidance. By nature, however, it is not possible to cover every eventuality that may occur within the context of 'people management'. It may be necessary to vary the approach to ensure matters are dealt with in the most efficient/appropriate way whilst maintaining equity and fairness. Any variance from the stated practice should be justifiable in these terms.
- 3.2 This policy supports legislation and guidelines contained within (but not limited to) the:
 - Employment Rights Act 1996
 - Human Rights Act 1998
 - Equality Act 2010/Public Sector Equality Duty
 - Employment Relations Act 1999
 - Data Protection Act 1998
 - Employment Act 2008
 - Enshrines the principles of the ACAS Code of Practice on Disciplinary and Grievance Procedures 2009.

4.0 Principles/Ethos of the Policy [FOIA Open]

Capability defined:

- 4.1 Capability is defined in the Employment Rights Act 1996, s98 (3) (a) as '**capability**

Not Protectively Marked

assessed by reference to skill, aptitude, health or any other physical or mental quality'. It includes, but is not limited to:

- Poor attendance record caused by genuine ill-health,
- Unacceptably slow pace of work,
- Inability to meet standards of skill required for the role,
- Inability to establish good working relationships,
- Inflexible/unadaptable, affecting performance of others by being difficult or abrasive.

- 4.2 Care should be taken to assess whether any of the above are related to a disability covered by the Equality Act 2010. At all times line managers should ensure they are using the procedure in a way that does not unlawfully discriminate.
- 4.3 It should be determined, as far as possible, whether a person's apparent lack of ability or competence is due to **capability** (which may be outside the employee's control) or **conduct** (over which the employee has control).
- 4.4 OPCC policy is to create a working environment in which employees are aware of the standards expected of them, receive support and assistance in achieving them and therefore deliver service to the highest possible standard.
- 4.5 Through a proactive/supportive management style line managers will identify potential areas of concern at an early stage, working with employees, informally in the first instance, formally where appropriate, to assist them in delivering the required standard.
- 4.6 Where action through the capability procedure is required, those involved must handle all such cases in an open, fair, proportionate and equitable manner.
- 4.7 The overriding principles of the policy are:
- 4.8 Line managers will ensure that employees are aware of departmental and individual performance standards by means of objectives, targets, competencies, job descriptions (role profiles), etc.
- 4.9 Line managers will maintain open communication with employees providing both positive and developmental feedback (as appropriate) on a regular & timely basis. Regular 'one to one' meetings, as part of the ongoing appraisal/performance & development review (PDR) process, will help to facilitate these discussions.
- 4.10 Where areas of concern still exist, these will be brought to the attention of the employee promptly and in a positive manner in order that areas for improvement are identified.
- 4.11 An informal approach, such as additional supervision, training, providing a mentor, coaching, performance improvement plans and regular meetings with the line manager, will be considered as a means of overcoming areas of concern in the first instance.
- 4.12 Where informal methods fail to bring about the required improvement in performance the formal capability procedure will be implemented.

Not Protectively Marked

- 4.13 When, having followed procedure, the desired improvement is not brought about; the ultimate outcome could be dismissal.
- 4.14 Where the employee disagrees with the outcome of any formal capability process, they have the right to appeal against the sanction imposed. The employee must appeal in writing, detailing the grounds of appeal, to the Chief Executive within 7 days of receiving notification of the capability decision.
- 4.15 Consideration should also be given to referring the employee to the Occupational Health Support Unit to establish if there are any underlying medical issues, which may have an effect on capability.
- 4.16 Line managers will bear in mind, having sought appropriate HR advice, the OPCC's obligations under the Equality Act 2010 to all nine protected characteristics and in particular to make reasonable adjustments when dealing with members of staff with a disability.
- 4.17 Line managers will provide a reasonable time frame in which individuals would be expected to demonstrate an improvement; interim review meetings will be scheduled to assist the employee in achieving the required improvements.
- 4.18 The informal stage will only be used once in any 12-month period. If there proves to be a further lapse in performance, the process will automatically proceed to the next stage of the process.
- 4.19 If the employee fails to come up to standard through carelessness, negligence or laziness, (which is within their own control) this should be treated as **misconduct** and dealt with under the disciplinary procedure.
- 4.20 In a case of proven ill health impacting on the employee's capability to perform his/her role to the level expected by the OPCC, these circumstances will be managed through the Attendance Management Policy which outlines the capability procedure on the grounds of attendance.

Responsibility and Monitoring

- 4.21 The Chief Executive has overall responsibility for overseeing the capability procedure and will ensure:
- Consistency and fairness identifying trends and patterns,
 - Records are kept of all capability action,
 - A suitable marketing/communication strategy in place across the organisation.
- 4.22 Line managers/the Chief Executive (as appropriate) will be responsible for monitoring the process ensuring:
- All cases are dealt with promptly and effectively,
 - Where the capability procedure is activated, that timescales are adhered to,
 - All parties are kept informed of progress/the outcome of the process.
- 4.23 All employees have a contractual responsibility to perform their duties to an acceptable standard and they should be given all reasonable support and encouragement to do so.

Not Protectively Marked

- 4.24 Line managers will endeavour to support the individual through the process and will keep individuals informed of developments and proposed actions, ensuring all involved understand how the matter is to be progressed.
- 4.25 The line manager will ensure that all parties involved in capability proceedings are aware they have access to employee assistance support.

5.0 Audit / Assessment Compliance [FOIA Open]

- 5.1 This policy has been drafted and audited to comply with the principles of the Human Rights Act. Equality and diversity issues have also been considered to ensure compliance with equality legislation and policies. In addition Data Protection, Freedom of Information, Management of Police Information and Health and Safety issues have been considered. Adherence to this policy will therefore ensure compliance with all relevant legislation and internal policies. Under the Freedom of Information Act 2000, the document is classified as 'OPEN'.

6.0 Review and Ownership [FOIA Open]

- 6.1 This policy is owned by the Office of Police & Crime Commissioner, with a review undertaken on a two yearly basis or earlier if required.

7.0 Useful Links [FOIA Open]

- 7.1 "Practical procedures to assist with the effective and consistent implementation of the policy can be accessed via the following link: [Capability Step by Step](#)