



NOT PROTECTIVELY MARKED

# WEST MIDLANDS POLICE

## Force Policy Document

<b>POLICY TITLE:</b>	<b>CAPABILITY</b>
<b>POLICY REFERENCE NO:</b>	<b>HR/05</b>

### Executive Summary

Capability refers to those areas of performance that would not be covered by disciplinary or misconduct processes, and can include performance matters related to sickness absence. This document provides guidance to line managers and individuals on the process that will be followed where there is concern over an individual's level of performance or attendance. This includes both formal and informal mechanisms. It also provides advice on the support that may be available in order to assist an individual in achieving the standards required to deliver an efficient and effective service.

*\*\*Any enquiries in relation to this policy should be made directly with that of the policy contact / department shown below.*

### Intended Policy Audience

This policy is aimed at all Police Officers and Staff of West Midlands Police.

<b>Current Version And Effective Date.</b>	<b>Version 1.3</b>	<b>April 2014</b>
<b>Business Area Owner</b>	<b>Human Resources</b>	
<b>Department Responsible</b>	<b>Corporate Human Resources</b>	
<b>Policy Contact</b>	<b>Tina Fergus, 57337</b>	
<b>Policy Author</b>	<b>Jackie Brown, 54328</b>	
<b>Approved By</b>	<b>David Thompson, Deputy Chief Constable</b>	
<b>Policy Initial Implementation Date</b>	<b>09.01.2013</b>	
<b>Review Date</b>	<b>2 Years from date of implementation</b>	
<b>Protective Marking</b>	<b>Not protectively marked</b>	
<b>Suitable For Publication – Freedom Of Information</b>	<b>Yes</b>	

### Supporting Documents

- *(Title and links to documents)*

### Evidence Based Research

Full supporting documentation and evidence of consultation in relation to this policy including that of any version changes for implementation and review, are held with the Force Policy Co-ordinator including that of the authorised original Command Team papers.

**Please Note.**

**PRINTED VERSIONS SHOULD NOT BE RELIED UPON. THE MOST UPTO DATE VERSION OF ANY POLICY OR DIRECTIVE CAN BE FOUND ON THE EQUIP database on the Intranet.**

**Force Diversity Vision Statement and Values**

“Eliminate unlawful discrimination, harassment and victimisation. Advance equality of opportunity and foster good relations by embedding a culture of equality and respect that puts all of our communities, officers and staff at the heart of everything we do. Working together as one we will strive to make a difference to our service delivery by mainstreaming our organisational values”

“All members of the public and communities we serve, all police officers, special constables and police staff members shall receive equal and fair treatment regardless of, age, disability, sex, race, gender reassignment, religion/belief, sexual orientation, marriage/civil partnership and pregnancy/maternity. If you consider this policy could be improved for any of these groups please raise with the author of the policy without delay.”

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## 1. POLICE STAFF CAPABILITY POLICY

- 1.1 Capability covers all matters related to performance other than those aspects which would fall within a disciplinary/misconduct procedure. Examples of incapability would be associated with sickness absence, drug/alcohol abuse, unsatisfactory performance, etc.
- 1.2 Managers should take any necessary and appropriate action if an individual does not achieve an acceptable level of general performance, standards or attendance in carrying out the duties of their post and where this is not due to misconduct.
- 1.3 Staff side representatives should be aware of the Force's policy on capability and the importance of ensuring consistent standards of performance across the Force.
- 1.4 In cases of incapability the process seeks to:
- ascertain the reasons for the problem
  - and establish a means of resolving the problem
- 1.5 Line Managers should be able to provide evidence in areas where the individual has not met the required standard and improvements in performance are required, areas of concern should have already been discussed with the individual before commencement of the capability procedure. Evidence of poor performance should be based on recent events, however Line Managers need to consider any patterns of under performance.
- 1.6 Where the incapability is the result of a lack of required skills the individual, where practicable will be supported through appropriate learning and development, and be given a reasonable period of time to reach the required standards of performance. Management of attendance issues will be linked to the guidance set out in Force Attendance Management Policy/ Guidance.
- 1.7 Line Managers can seek further support with regards to Capability by contacting the Line Manager Advisor Team in Corporate HR.
- 1.8 Consideration will be given throughout the application of this process of any implications arising from the Equalities Act 2010. As part of any development plans the individual may require access to specialist external agencies, counselling facilities or referral to the People Advice and Liaison Service. Details of these can be found on the Intranet page, "Someone To Talk To."

## 2. INFORMAL RESOLUTION

- 2.1 Where there are concerns regarding an individual's capabilities, supervisors/managers should initially have an informal discussion with him/her to determine reasons for the unsatisfactory performance and identify ways of resolution/improvement without recourse to the formal procedure.
- 2.2 Following the informal discussion a development plan (link to development plan) should be drawn up with the individual taking into consideration the following areas:
- definition of issue/problem
  - training/retraining/development actions
  - time plan for demonstrable improvement, with reference to specialist advice, e.g. Occupational Health and Safety Unit
  - mentoring/coaching where appropriate
  - actions to address attendance levels (linked to advice set out within Force Attendance Management Guidance).

### 3. FORMAL CAPABILITY PROCESS – 1<sup>st</sup> FORMAL CAPABILITY INTERVIEW

- 3.1 If improvements in performance are not achieved the formal procedure will be implemented. The individual will be invited to attend a 1<sup>st</sup> Formal Capability Interview. In such cases the individual must be given notification in writing (link to 1<sup>st</sup> stage invite) of the interview to be held under the procedure, with a minimum of seven working days notice. The notification should also include details of the general nature of the matter and examples of the unsatisfactory performance and the individual's right to be represented.
- 3.2 The Line Manager should conduct the formal interview and should address the following points:
- Confirmation/exploration of the unsatisfactory performance with documented evidence of where unsatisfactory performance has taken place.
  - Targets to be achieved
  - Timescales for improvement/review
  - Likely consequences of the shortcomings outlined
  - Guidance on remedies, together with any appropriate training/retraining support.
  - A written record of the interview(s) should be taken.
- 3.3 Following the interview the Line Manager should prepare a further development plan (link to development plan) with timescales of improvement and a letter confirming that the individual has been issued with 1<sup>st</sup> Stage Advice which should be sent to the individual along with a record of the interview.
- 3.4 Development plans should last no longer than 12 months and no less than 3 months, this is to ensure that that the individual has been given sufficient time in order for them to improve their performance

### 4. REVIEW PERIODS

Once the Line Manager has implemented a development plan, timescales for its completion should be set along with monthly reviews. The purpose of these reviews is to assess whether the individual is on course to complete the agreed objectives or if any adjustments need to be made.

### 5. EXTENSION OF THE DEVELOPMENT PLAN

In some cases it maybe necessary to extend the development plan beyond the agreed end date. This maybe necessary where an individual has completed most of the objectives set however is outstanding on some due to circumstances beyond their control ie.awaiting a training course. The decision to extend the development plan should be made along with the individual during a review of their performance under the plan. Extensions to the development plan should be, in most cases, no longer than a further 3 months.

### 6. COMPLETION OF 1<sup>st</sup> STAGE ADVICE

Once the development plan has been completed the Line Manager should write (Link to 1<sup>st</sup> stage conclusion) to the individual to confirm that they have completed the required competencies within the plan and they have improved sufficiently for 1<sup>st</sup> Stage Advice to be concluded.

1<sup>st</sup> Stage Advice will remain on their Personal File for a period of not less than twelve months, and will be linked to a review of any action plan(s) agreed during this period.

## 7. FORMAL CAPABILITY PROCESS – 2<sup>nd</sup> FORMAL CAPABILITY INTERVIEW

Following the issue of previous advice if there has been insufficient improvement, or any improvement has not been maintained, the individual will be invited to attend a 2<sup>nd</sup> Formal Capability Interview. In such cases the individual must be given notification in writing (link to invite to 2<sup>nd</sup> stage) of the interview to be held under the procedure, with a minimum of seven working days notice. The notification should also include details of the general nature of the matter and examples of the unsatisfactory performance and the individual's right to be represented.

- 7.1 The Line Manager should conduct the formal interview, addressing the points as set out in the 1<sup>st</sup> Stage Capability Interview. The Line Manager should prepare a further development plan (link to development plan) with timescales of improvement and a letter confirming that the individual has been issued with 2<sup>nd</sup> Stage Advice which should be sent to the individual along with a record of the interview.
- 7.2 Review periods should be agreed as set out in 4.0.

## 8. COMPLETION OF 2<sup>nd</sup> STAGE ADVICE

Once the development plan has been completed the Line Manager should write (Link to 2<sup>nd</sup> stage conclusion) to the individual to confirm that they have completed the required competencies within the plan and they have improved sufficiently for 2<sup>nd</sup> Stage Advice to be concluded.

2<sup>nd</sup> Stage Advice will remain on their Personal File for a period of not less than eighteen months, and will be linked to a review of any development plans agreed during this period.

## 9. FORMAL CAPABILITY – FINAL INTERVIEW

- 9.1 If there has been insufficient improvement or If a most serious performance problem arises where it is thought that the individual has been grossly incompetent the individual may be dismissed with notice or pay in lieu of notice. This may also include serious health and safety concerns, or where following the issue of previous advice there has been insufficient or lack of sustained improvement.
- 9.2 Where dismissal is a consideration a Final Interview will be arranged before a Commander/ Head of Department and a HR representative who has had no previous involvement in the case. The interview will comprise of a presentation of the management case and the individual's response. A statement of case will be prepared by both sides to be heard at the interview.
- 9.3 All parties should receive a minimum of seven days notice of the time, date and location of the interview, although it is acknowledged that in complex cases, more time may be required. The details should be confirmed in writing (link to invite to final interview) to the individual. The statement of case prepared by both sides should also be made available at this time.
- 9.4 The Chair will, on the basis of the evidence presented, review the case and determine the appropriate action from one or more of the following areas: -
- Transfer to another pattern of work/ role
  - Withholding of increments
  - Down grading
  - Dismissal
- 9.5 A letter confirming the outcome of the Interview should be sent to the individual detailing any appropriate action and a copy should be reflected on the individual's personal file and ORACLE record for the period specified by the Chair.

## 10. APPEALS

- 10.1 Individuals have a right of appeal against all action imposed under this procedure. The Appeal Hearing will determine whether the decision taken by the Chair at the time was fair and reasonable.
- 10.2 Notification of the intention to appeal against any appropriate action must be submitted in writing to the Head of HR within seven working days of receipt of the written confirmation of the action. Within fifteen working days of their notification to appeal, the individual must submit a written statement outlining the grounds of the appeal.
- 10.3 Appeals against any action, other than dismissal, will be heard by a member of Command Team or staff equivalent, advised by a representative from Corporate HR.
- 10.4 Appeals against dismissal will be heard by the Deputy Chief Constable, advised by a representative from Corporate HR.
- 10.5 The case will be presented by the Chair of the final interview, supported by the HR representative who advised the chair. The individual shall have a right to attend the appeal hearing, accompanied by a trade union representative or fellow worker.
- 10.6 Notwithstanding the above provisions, individuals have a right of recourse to the Force resolution procedure (link) in appropriate circumstances.

## 11. EQUALITY IMPACT ASSESSMENT (EQIA)

The Policy has been reviewed and drafted against all protected characteristics in accordance with the Public Sector Equality Duty embodied in the Equality Act 2010. The policy has therefore been Equality Impact Assessed to show how WMP has evidenced 'due regard' to the need to:

- Eliminate discrimination, harassment, and victimisation.
- Advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it.
- Foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

*Supporting documentation in the form of an EQIA has been completed and is available for viewing in conjunction with this Policy.*

## 12. HUMAN RIGHTS.

- 12.1 This policy has been implemented and reviewed in accordance with that set out with the European Convention and principles provided by the Human Rights Act 1998. The application of this policy has no differential impact on any of the articles within the Act. However, failure as to its implementation would impact on the core duties and values of WMP (and its partners), to uphold the law and serve/protect all members of its community (and beyond) from harm, effecting that of:

**13. FREEDOM OF INFORMATION (FOI)**

- 13.1 Public disclosure of this policy document is determined by the Force Policy Co-ordinator on agreement with its owner. Version 1.3 of this policy has been GPMS marked as Not Protectively Marked.
  
- 13.2 Public disclosure does not automatically apply to supporting Force policies, directives and associated guidance documents, and in all cases the necessary advice should be sought prior to disclosure to any one of these associated documents.

Which exemptions apply and to which section of the document?	Whole document	Section number

**14. TRAINING**

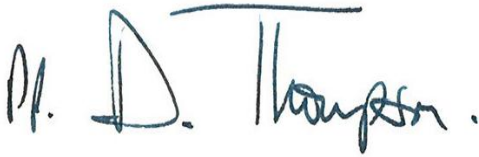
**15. PROMOTION / DISTRIBUTION & MARKETING**

The following methods will be adopted to ensure full knowledge of the Policy:  
The policy will be published on the HR intranet site.

**16. REVIEW**

- 16.1 The Policy business owner, the Corporate HR Department maintain outright ownership of the policy and any other associated documents and in-turn delegate responsibility to the department/unit responsible for its continued monitoring.
  
- 16.2 The policy should be considered a 'living document' and subject to regular review to reflect upon any Force, Home Office/ACPO, legislative changes, good practice (learning the lessons) both locally and nationally, etc.
  
- 16.3 A formal review of the Policy document, including that of any other potential impacts i.e. EQIA, will be conducted by the date shown as indicated on the first page.
  
- 16.4 Any amendments to the Policy will be conducted and evidenced through the Force Policy Co-ordinator and set out within the version control template.
  
- 16.5 Feedback is always welcomed by that of the author/owner and/or Force Policy Co-ordinator as to the content and layout of the policy document and any potential improvements.





CHIEF CONSTABLE

17. VERSION HISTORY.

Version	Date	Reason for Change	Amended/Agreed by.
Version 1.0	22 / 11 / 2012	To amend the words Police Authority to the words Police and Crime Commissioner. This is to reflect the disestablishment of the Police Authority and the installation of the Police and Crime Commissioner. Also to amend spelling, grammar and general changes in policy	Chris Rowson, Head of HR
Version 1.1	22 / 11 / 2012	<p><b>Paragraph 1.8</b></p> <ul style="list-style-type: none"> <li>“Disability Discrimination Act” has changed to “Equalities Act 2010”</li> </ul> <p><b>Paragraph 7</b></p> <ul style="list-style-type: none"> <li>“Following the issue of previous advice there has been” has changed to “Following the issue of previous advice if there has been”</li> </ul> <p><b>Paragraph 9.1</b></p> <ul style="list-style-type: none"> <li>“If there has been insufficient improvement or” has been added to the start of the paragraph.</li> </ul> <p><b>Paragraph 9.2</b></p> <ul style="list-style-type: none"> <li>“HRM” has been changed to “HR Business Partner”</li> </ul> <p><b>Paragraph 9.3</b></p> <ul style="list-style-type: none"> <li>“You should confirm these details in writing” has changed to “The details should be confirmed in writing”</li> </ul> <p><b>Paragraph 10.2</b></p> <ul style="list-style-type: none"> <li>“Head of HR (check)” has been changed to “Head of HR”.</li> </ul> <p><b>Paragraph 10.4</b></p> <ul style="list-style-type: none"> <li>“Appeals against dismissal will be heard by a panel comprising members of the Police Authority, with support from HR and legal advisers to the Authority” has changed to “Appeals against dismissal will be heard by the Police and Crime Commissioner, advised as appropriate by a representative from Corporate HR and the Legal Service Department.”</li> </ul> <p><b>Paragraph 10.5</b></p> <ul style="list-style-type: none"> <li>“HRM” has been changed to “HR Business Partner”</li> </ul>	
V.1.2	06.12.2012	To DCC for approval	DCC Thompson
Version 1.3	1 April 2014	Stage 2 transfer requires appeal against dismissal to be heard by the Deputy Chief Constable	

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