



Responsible Trustee	Date policy produced	Name of Policy Writer	Frequency of Review	Date reviewed on / by whom	
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Capability Procedure

1. Introduction

The aim of this Policy and Procedure is to encourage improvement in individual conduct or behaviour where this falls short of required standards. This procedure sets out the action to take when the performance of an employee/paid office holder is unsatisfactory.

2. Application

This policy applies to all employees or paid office holders of Cambray Baptist Church with the exception of Pastors. Pastors are accountable to the Trustees, and in particular the Elders, and the Members of the Church in accordance to the Church Constitution.

3. The Biblical Basis

In scripture there is a dual responsibility of 'masters' to their 'servants' and 'servants' to their 'masters'. As believers those who have people working for them are called upon to treat these people fairly, with consideration and respect. As believers those who are employed are called upon to work "as unto the Lord" (Eph 6:7-9, 1 Pet 2:8), with sincerity of heart (Col 3:22-25). In Tit 2:9-10 we are shown that our work should be "in good faith" and with absolute honesty so as to bring honour to the Lord.

In the work of the church we want, both as employers and employee/paid office holders, to demonstrate the goodness God created in work and the privilege of working "as unto the Lord", so that we can play our part in the work God is doing in building His Kingdom through the work of Cambray Baptist Church.

Nonetheless, as fallen yet redeemed people we do fail (1 Jn 1:9) and there may be difficulties that arise. We want to ensure that all parties have opportunity to resolve any such difficulty in truth, integrity and with grace. To this end this policy seeks to establish clear pathways for bringing and resolving problems with performance in a paid position so that all are supported and God's name is honoured even in the midst of difficulty and so that all paid to work within Cambray Baptist Church are enabled to work in a way that brings honour to God's name.

4. Capability Procedure

4.1. Introduction

We want to enable every employee/paid office holder achieve and maintain high standards of conduct, attendance and performance in their ministry and work. However, there may be times and circumstances where achievement of these goals is compromised or is lacking. Where this is the case the line manager will

seek to address the problem through normal line management discussion and objective setting. Where this does not succeed in helping improve performance towards expectations, the Capability Procedure can be used.

4.2. Formal enactment of the Capability Procedure

Where an employee/paid office holder is believed to not be able to or has not been conscientious in seeking to meet the responsibilities and expectations of their role and has not responded to normal line management instruction, training and encouragement, then their line manager may raise the issue to the Church Secretary. The Church Secretary or their nominee will investigate the situation and may then decide to set up a formal Capability Hearing.

Representatives of the Trustees will be asked to conduct the hearing. These representatives may also invite support from further members of Cambray Baptist Church and a note taker.

Written notification of the Hearing will be sent to the employee/paid office holder. In this notification of the Hearing written statements will be requested from the Line Manager and the employee/paid office holder along with the timescale for receipt of those written representations.

The Nominated Representatives will then meet with the Line Manager and the employee/paid office holder within 14 calendar days of receipt of the written statements to conduct the review, or as soon as is reasonably practicable.

4.3. Aims of the Capability Hearing

The aims of a capability hearing will usually include:

- Setting out the required standards that the employee/paid office holder may have failed to meet, and going through any relevant evidence that has been gathered;
- Allowing the employee/paid office holder to ask questions, present evidence, call witnesses, respond to evidence and make representations;
- Establishing the likely causes of poor performance including any reasons why any measures taken so far have not led to the required performance;
- Identifying whether there are further measures, such as additional training or supervision which may improve performance;
- Where appropriate, discussing targets for improvement and a time-scale for review
- Where dismissal is a possibility, establishing whether there is any likelihood of a significant improvement being made within a suitable time and whether there are any practical alternatives to dismissal such as redeployment

4.4. Rules of Procedure

The rules of procedure of the capability meeting will be as follows:

- The capability of the employee/paid office holder will be determined following an oral hearing from their line manager and the employee/paid office holder at which representations can be made by both parties and evidence presented.
- A formal written record of the meeting will be kept – a ‘note taker’ may be appointed by the Nominated Representatives for the purposes of keeping this record. This record will be signed after the meeting as an accurate record of the meeting by all parties.
- No part of the proceedings may be recorded apart from this formal written record.
- The employee/paid office holder and the line manager will each be entitled to be represented or accompanied by a colleague or senior member of the church who knows them well.
- The meeting may be suspended and reconvened at a later date if further fact finding or consultation is needed. Any fact finding must be conducted as expeditiously as reasonably practicable so as to not delay the process.

- If, after due consideration, the Nominated Representatives are of the opinion that the capability concern is justified, they will make such proposals to seek to improve performance (and the time line for the such improvement), and/or recommendations to the line manager regarding management of the employee/paid office holder.
- The decision of the Nominated Representatives will be notified to the employee/paid office holder and their line manager, and recorded in a document signed by the Nominated Representatives leading the investigation.

4.5. Stages of Capability Investigation

Stage 1 Capability Hearing – First written warning

Following a Stage 1 capability hearing, if the Church decides that the employee/paid office holder's performance is unsatisfactory, the employee/paid office holder will be given a First Written Warning within seven calendar days setting out:

- the areas in which he/she 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 performance;
- a period for review;
- the consequences of failing to improve within the review period, or of further unsatisfactory performance.

The warning will normally remain active for six months after which time it will be disregarded for the purposes of the Capability Procedure. However, a permanent record of it will be placed on the employee/paid office holder's personnel file.

The employee/paid office holder's performance will be monitored during the review period and the Church will write to him/her to inform them of the outcome:

- if the employee/paid office holder's line manager is satisfied with the employee/paid office holder's performance, no further action will be taken;
- if the line manager is not satisfied, the matter may be progressed to a Stage 2 capability hearing; or
- if the line manager feels that there has been a substantial but insufficient improvement, the review period may be extended.

Stage 2 Capability Hearing – Final written warning

If the employee/paid office holder's performance does not improve within the review period set out in the first written warning, or if there is further evidence of poor performance whilst the employee/paid office holder's first written warning is still active, the Nominated Individuals may decide to hold a Stage 2 Capability Hearing. The Nominated Individuals will send the employee/paid office holder written notification as set out above.

Following a Stage 2 capability hearing, if the Nominated Representatives decide that the employee/paid office holder's performance is unsatisfactory, it will give the employee/paid office holder a final written warning, setting out:

- the areas in which the employee/paid office holder 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 performance;
- a period for review;
- the consequences of failing to improve within the review period, or of further unsatisfactory performance.

A final written warning will normally remain active for 12 months from the end of the review period, after which time it will be disregarded for the purposes of future Capability Procedures. A record of the warning will form a permanent part of the employee/paid office holder's personnel record.

The employee/paid office holder's performance will be monitored during the review period and the Church will write the employee/paid office holder to inform them of the outcome:

- if the employee/paid office holder's manager is satisfied with his/her performance, no further action will be taken;
- if the employee/paid office holder's manager is not satisfied, the matter may be progressed to a Stage 3 capability hearing; or
- if the manager feels that there has been a substantial but insufficient improvement, the review period may be extended.

Stage 3: Capability Hearing - dismissal or redeployment

The Nominated Representatives may decide to hold a stage 3 capability hearing if we have reason to believe:

- the employee/paid office holder's performance has not improved sufficiently within the review period set out in a final written warning; or
- the employee/paid office holder's performance is unsatisfactory while a final written warning is still active; or
- the employee/paid office holder's performance has been grossly negligent such as to warrant dismissal without the need for a final written warning.

The Nominated Representatives will send the employee/paid office holder written notification of the hearing as set out above.

Following the hearing, if the Nominated Representatives find that the employee/paid office holder's performance is unsatisfactory, the Church may consider a range of options including:

- dismissing the employee/paid office holder;
- redeploying the employee/paid office holder into another suitable job at the same or [(if your contract permits)] a lower grade; or
- extending an active final written warning and setting a further review period (in exceptional cases where the Church believes a substantial improvement is likely within the review period).
- giving a final written warning (where no final written warning is currently active).

Dismissal will normally be with full notice or payment in lieu of notice, unless the employee/paid office holder's performance has been so negligent as to amount to gross misconduct, in which case the Church may dismiss the employee/paid office holder without notice or any pay in lieu.

5. Appeals against action for capability.

If the employee/paid office holder believes that a decision about capability under this procedure is wrong or unjust he/she should appeal in writing, stating his/her full grounds of appeal, to the Church Secretary within one week of the date on which he/she was informed in writing of the decision.

If the employee/paid office holder is appealing against dismissal, the date on which dismissal takes effect will not be delayed pending the outcome of the appeal. However, if the employee/paid office holder's appeal is successful he/she will be reinstated with no loss of continuity or pay.

If the employee/paid office holder raises any new matters in his/her appeal, the Church may need to carry out further investigation. If any new information comes to light the Church will provide the employee/paid office holder with a summary including, where appropriate, copies of additional relevant documents and witness

statements. The employee/paid office holder will have a reasonable opportunity to consider this information before the hearing.

The Appeal will follow the Procedure given in the Disciplinary, Grievance and Appeals Policy.

Following the appeal hearing the Appeal Committee may:

- confirm the original decision; or
- revoke the original decision; or
- substitute a different penalty.

The Church will inform the employee/paid office holder in writing of its final decision as soon as possible, usually within one week of the appeal hearing. Where possible this will also be explained to the employee/paid office holder in person. There will be no further right of appeal.

Derived from BU document L-O8 Employment, Annex 6, pages 44-48, 2023

<https://www.baptist.org.uk/Publisher/File.aspx?ID=111324&view=download>