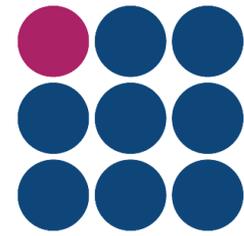


How to perfect your performance management cycle

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Specialist HR, employment law and Health & Safety services for businesses



BHAYANI

HR & Employment Law

in your corner

About Us – Bhayani HR & Employment Law

Bhayani Law is an SRA regulated law firm and a one stop shop for all of your people management issues with the benefit of in-house HR advisors. Our unique offering of a consistent approach with HR and legal working side by side means that you get a consistent and seamless answer to your needs, with **fixed and manageable costs**.

- Law firm specialising in **HR, Employment Law and Health & Safety**
- A dedicated team of **Solicitors, HR Associates** and **Executive Coaches**
- **Advise** Businesses, Charities and Employees on:
 - Performance and Absence Management
 - Contracts, Policies and Settlement Agreements
 - Grievances, Disciplinarys and Dismissals
 - Redundancy, Restructure and TUPE
 - Discrimination
 - Employment Tribunal Representation
 - HR Training



How can we help you?

Watertight HR & Legal and Health & Safety for your business

One stop shop for all your people management needs.

When you run a business you need quick, robust and practical advice to manage the issues which arise to protect the business and get the best out of your employees. We provide cost-effective legal expertise with an exceptional level of service, tailored to your individual, personal and business needs.

After spending time getting to grips with the issues facing your business, the next question you'll be asked by us is **“What outcome do you need to achieve?”**



Tell tale signs

- Complaints from staff
- Complaints from clients
- Failure to meet targets
- Frequent mistakes
- When off sick
- When someone is leaving



Controlled monitoring and recording

- Probationary period
- Job descriptions and person specs
- Appraisals
- Supervision
- Random file checks
- Client feedback forms/surveys
- Co-worker/colleague feedback



Probationary periods



What are they?

- In a workplace setting, **probation** (or **probationary period**) is a status given to new employees of a company or business.
- It is widely termed as the Probation Period of an employee.
- This status allows a supervisor or other company manager to evaluate closely the progress and skills of the newly hired worker, determine appropriate assignments, and monitor other aspects of the employee such as honesty, reliability, and interactions with co-workers, supervisors or customers.

Probationary reviews

- When do you do them?
- Why do you do them?
- Who does them?
- What paperwork do you need?



What if they do not pass their probationary period?

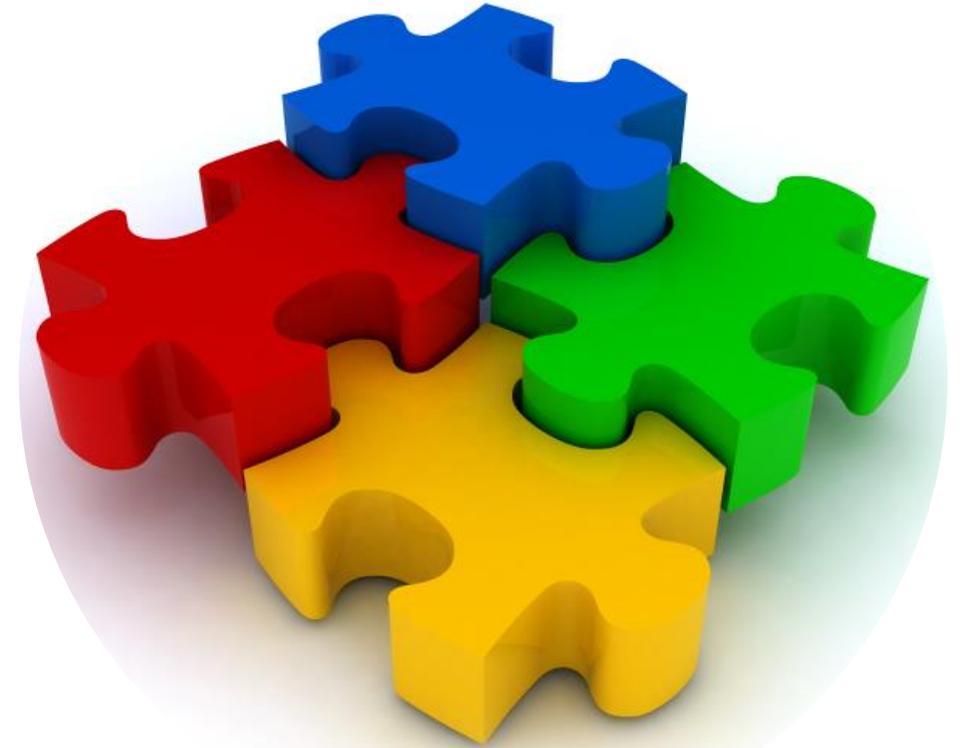
Employment will be terminated!

- PILON or no PILON?!?
- Notice period
- Accrued holiday



What is a Capability Procedure?

A **capability procedure** is used to address the concerns regarding an employee's **performance** and/or unacceptable absences and consider ways in which you can work together to **improve** their performance to an **acceptable level**.



Benefits of performance management

There are some key benefits of performance management:

1. Highlights training needs
2. Boosts Morale
3. Helps with identifying the right employees for promotion
4. Supports workforce planning
5. Increases employee retention
6. Delivers greater employee autonomy



First steps



- Performance issues should normally be dealt with **informally** as part of day-to-day management
- Keep a record of any **patterns of concerning behaviour** and also **document** any conversations
- Any recorded conversations at this stage will not form part of employee's disciplinary record

Before deciding to follow Capability Procedure

Undertake a reasonable assessment or investigation to ascertain that this is necessary:

- Performance or disciplinary issue?
- Less than two years service
- Review **personnel file** including the job description, appraisals, training records, disciplinary record and any relevant documents
- **Monitor** their work
- **Interview** the employee and/or other individuals confidentially regarding their performance
- **Set objectives informally** over a **set time period** to give them the opportunity to improve before invoking the formal process.



Inviting the employee to a Capability Meeting

If you decide to take formal action under the Capability Policy, you should write to the employee setting out:

- the date, time and location of the meeting
- the concerns regarding their performance
- the reasons for those concerns
- inviting them to a formal capability meeting to discuss the situation
- likely outcome
- copies of any relevant documents that will be used or referred to at the meeting
- Informing them of their right to be accompanied

Capability Meetings

A First Formal Performance Review meeting under the Capability Policy will usually be conducted by an employee's manager.

The aim of the meeting is to:

- **Clarify the required standards** you feel the employee has failed to meet and examine the evidence in this respect.
- Allow the employee to ask **questions**, respond to the **evidence** put forward, provide any evidence they may have and put their views across.
- Establish the likely **reasons** for the employee's poor performance.
- Identify what can be done to assist employee in **improving their performance**.
- **Set targets for improvement and a timescale for review.**





Outcome

If you decide that the employee's performance is unsatisfactory *without good reason*, you may give them a **first written warning**.

This warning should set out:

- How long it will remain live on the employee's personnel file, after which it should be disregarded- 6 months unless further issues arise within that time.
- The areas in which employee's performance has fallen below required standards.
- Targets for improvement and the timescale in which improvement is required.
- Any additional measures you are going to take in order to assist in improving their performance.

Review Period

How long should the review period be?

- dependant on the nature of the poor performance
- dependant on the needs of the business
- what would be reasonable in the circumstances
- consider length of service and any previous performance management





What if they don't improve?

Second Formal Performance Review meeting

- Focus of the second meeting will usually be on the extent to which their performance has improved over the review period and if it has not improved to a satisfactory level, the reasons for this and whether anything further can be done to assist them
- Outcome would often be a **final written warning**
- In the outcome letter there will additionally be the consequences if the employee fails to improve to the required standard within the review period, or of further unsatisfactory performance within the period in which the final warning is active - dismissal.

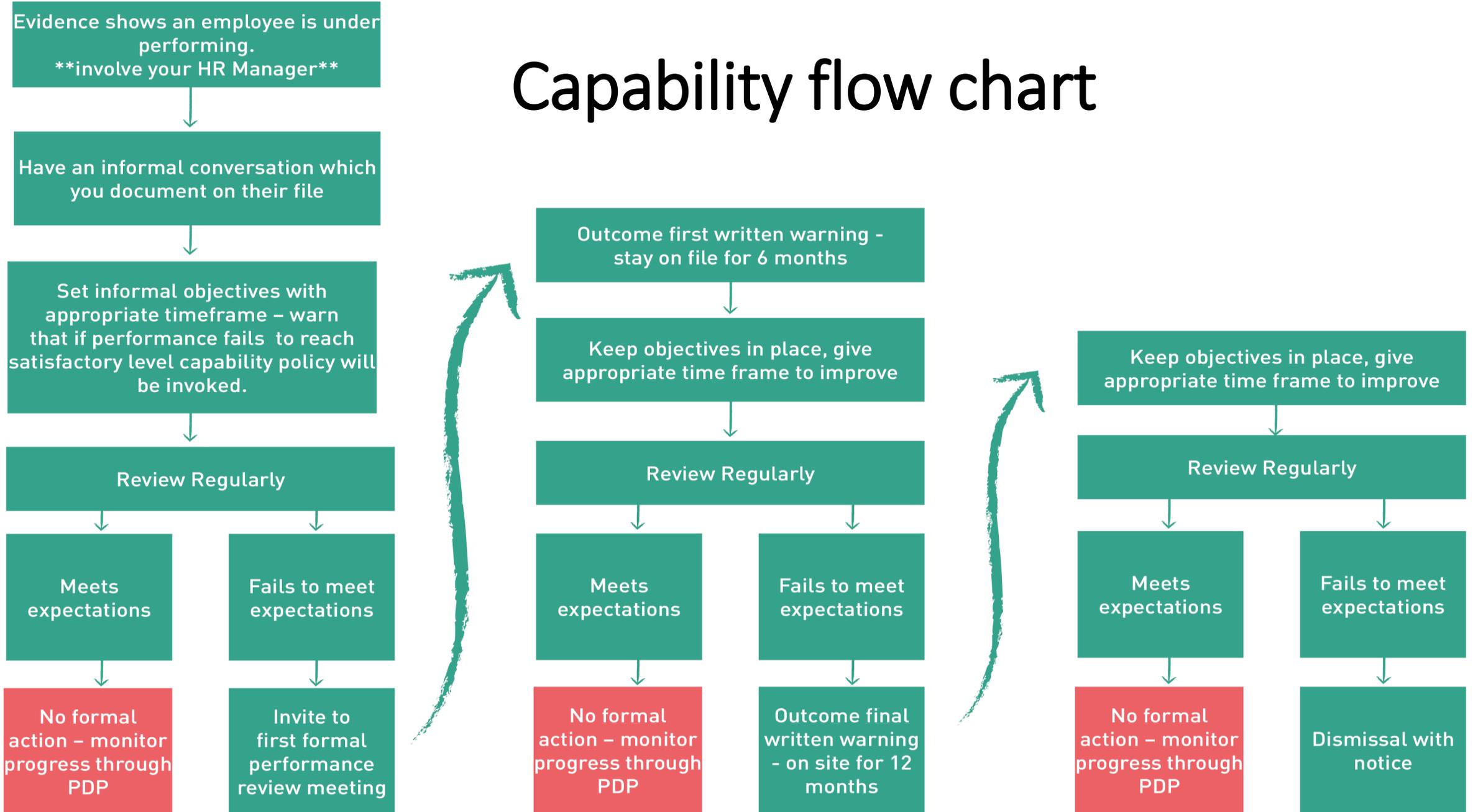
What if they still don't improve?

Third Formal Performance Review meeting

- If there still has been no improvement- you should seek to dismiss.
- Outcome should be confirmed in writing
- **Dismissal** would be with notice- either worked notice or a payment in lieu of notice. Accrued but untaken holidays should also be paid.



Capability flow chart



Dismissal issues

- Is it possible to fairly dismiss for a single act of incompetence?
- Employees who lapse after improvement
- Can we use a settlement agreement as an alternative?



Possible claims

- Breach of contract:
 - Express terms - Failure to follow a contractual procedure
 - Implied terms - Trust and confidence, failure to provide support
- Unfair dismissal
- Discrimination and harassment





Keep in touch

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