



POLICY NAME	Capability Policy	VERSION NO.	1
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Revision History.

Version	Date	Page Number	Details of Change	Author

Contact Information.

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1. Policy Purpose & Aim

The purpose of the Capability Policy is to provide a framework for managing underperformance in a fair and consistent manner. The Policy differs from the Disciplinary, Sickness Absence and other policies as its primary focus is that of improving performance to the standard required. The Policy establishes guidelines for managers and staff when an employee's work performance falls below the standard appropriate for the role due to underperformance.

This policy aims to ensure that performance expectations and standards are defined, performance is monitored, and employees are given appropriate feedback, training and support to meet the standards required by Milewood.

This policy applies to all employed staff of Milewood, where performance issues have been identified.

2. Objectives

The objectives of this policy are to:

- Ensure that we are fair, reasonable and consistent in our approach to the management of performance and capability issues within Milewood.
- Give employees every opportunity to improve and maintain acceptable performance levels, should there be concerns raised by their Line Manager.
- Provide clarity to staff and managers on the process to follow when managing performance and capability issues.
- Ensure we promote a strong, supportive environment in which the line manager's expectations for the employee's success are a key factor.

3. Policy Statement

As a responsible employer, Milewood is committed to ensuring all instances of poor performance through capability are treated in a fair and consistent manner. In order to ensure that the policy is applied consistently and fairly throughout the organisation, the HR team will review operation of the policy on a regular basis.

4. Monitoring & Review

This policy will be formally reviewed every three years or earlier if new legislation or guidance is published, or if new research, monitoring or auditing suggests that a review may be required.

5. Responsibilities

5.1 Responsibilities of the employee

- All employees are required to perform their duties to an acceptable standard, as defined by their job description and the technical and behavioural expectations of the role.
- The employee is responsible for completing their induction and all necessary mandatory and statutory training upon starting with Milewood, adhering to the required timeframe specified for the completion of these.
- The employee should speak to their line manager as soon as possible if they are struggling in any area of their role, to seek to improve where their performance falls below the standards required. The employee is encouraged to do this during 1-1 meetings and supervisions with their line manager.
- The employee will work with their line manager to agree an appropriate way to address performance issues, such as using a Performance Improvement Plan (PIP) and will work towards meeting the standards required under such plan.
- If any reasonable training is recommended to improve performance in the role, the employee is responsible for ensuring this is attended/completed.
- The employee is also responsible for identifying any learning and development activities which might enhance work performance.

5.2 Responsibilities of the line manager

- Managers are responsible for setting consistent targets for all members of staff and ensuring that they have received appropriate induction, training and development to perform their duties and responsibilities to an acceptable standard.
- All managers should be aware of the terms of the Capability Policy and ensure that their direct reports understand its nature and scope. It is the line manager's responsibility to identify underperformance and to seek to address this at the earliest opportunity.
- The line manager is responsible for meeting with all new starters and identifying any training or other interventions that are required to help the new starter work effectively within the team.
- The line manager is responsible for conducting regular supervisions with their team members and ensuring that regular feedback is provided in respect of the employee's performance.
- The line manager is responsible for carrying out annual appraisals with their team and setting SMART objectives for the following 12 months.

- The line manager is responsible for agreeing a personal development plan with their team, which is then to be discussed during supervisions every 3-6 months.
- If any capability issues are identified, the line manager is responsible for working with the employee to draw up and monitor an appropriate Performance Improvement Plan (PIP). The Line Manager should discuss the PIP with HR prior to finalising the arrangements with the employee. Please refer to the Performance Improvement Plan template, **Appendix A**.
- All PIPs should be reviewed by the Line Manager's Manager and HR as part of the process, before issuing the PIP to the employee.
- The line manager is responsible for monitoring the progress of any employee who is working in accordance with a PIP, and identifying and addressing any issues that arise which mean the targets within that plan are not being met.
- The line manager is responsible for addressing continuing poor performance through disciplinary measures as per this Capability Policy.

5.3 Responsibilities of the HR team

- HR will support the line manager and employee in the correct implementation of this policy and will provide advice and guidance as required. They will support the manager in the process of making informed, fair and reasonable decisions.
- HR will review all PIPs to ensure a consistent and fair approach for all employees across Milewood.

6. Risk Management

Failure to follow the policy and processes could result in:

- Unacceptable levels of performance from employees which may be costly to Milewood and may adversely affect service/productivity.
- Lack of morale and motivation within teams in respect of poor performance that is not addressed
- The perception of unfair treatment of employees if there is an inconsistent approach to the application of this policy by line managers
- Legal challenge resulting in Employment Tribunal costs and reputational and financial damage.

Mitigating actions include:

- Communicating this policy to all staff
- Seeking legal and Human Resources advice where required.

7. Capability Procedure

Capability refers to an employee's ability to perform the work expected of them to the standard required. This may be assessed by reference to an employee's skill, aptitude, health or any other physical or mental characteristics in relation to the job that they are employed to do. Milewood recognises that poor job performance and incapability should not be automatically treated as a disciplinary offence.

Milewood has a responsibility for setting realistic standards of performance, for explaining these standards carefully to employees and for supporting employees to achieve the standards set.

It is recognised that capability concerns may result from underlying work problems or personal issues that may be outside the employee's direct control. Consequently, there is a need to treat all capability issues with care and sensitivity and to identify and (where appropriate) address the underlying causes.

7.1 Assessing Capability

The assessment of capability is an ongoing process within Milewood. It starts at the stage of recruitment, when the employee is assessed as being capable of performing the role through technical and behavioural competencies. It is likely that the employee will need additional development when first employed as part of their induction into Milewood. Capability is assessed throughout the employee's life cycle with Milewood as follows:

7.1a Job Descriptions

Job descriptions should accurately convey the main purpose and scope of each job and the tasks involved, in line with technical and behavioural competences for the role, which describes what knowledge, abilities and attitude is necessary to perform the job to an acceptable standard.

The line manager is responsible for reviewing the job description with the employee at their annual appraisal meeting / supervisions.

7.1b Recruitment

Recruitment and selection of employees requires the use of Milewood's recruitment toolkit by all interviewers. Candidates will be shortlisted by assessing their application in relation to the needs of the job as defined in the technical competencies for the role.

Competency based questions are to be used during the interview process to assess further the technical and behavioural competencies of the candidate to ensure that Milewood is satisfied they are able to perform the job to an acceptable standard.

Please refer to our Recruitment & Selection Policy for further information.

7.1c New Starters

Milewood provides a full induction and probationary period for new starters.

- Induction – All new starters will have a full induction to help them understand Milewood's mission, vision and values and the technical and behavioural competencies expected of them to be fully effective in their role.
- Probationary Period – all new starters will receive a probationary period in their Terms and Conditions of Employment. Any issues relating to capability during probation will be dealt with in accordance with the Probation Policy.

7.1d Annual Appraisals

Objectives should be specific, measurable, achievable, relevant and time-framed in respect of quality, quantity and cost, and these should be allocated and reviewed through the Milewood Appraisal Process, whereby there is an opportunity for the employee to discuss their training and development needs on a one-to-one basis.

Where a training or development need is identified, the manager must ensure appropriate training is arranged to address any shortfall in skills, understanding or delivery.

Employees have a responsibility to take ownership and achieve a satisfactory level of performance and should be given help and encouragement to reach it through the PDR process.

7.1.e Internal Promotion / Change of Role

Where an employee is promoted or has a permanent change of role, the consequences of failing to meet the standards of performance for the new post should be clearly explained.

Support will be given to the employee for any reasonable additional training or other learning and development that is required to ensure the standards are met for their new role.

In all cases, the employee will be promoted on the basis of a probationary period in the new role, with the condition that Milewood has the right to transfer or downgrade the employee should they fail to satisfy their line manager that they are competent in the promoted post. However, should there be no suitable positions for the employee to be moved to, the consequences of failing to meet the standards of performance may result in termination of employment.

Milewood is responsible for the careful consideration of all promotions and should not promote employees unless they have the necessary technical and behavioural competences for the role, which describes what knowledge, abilities and attitude is necessary to perform the job to an acceptable standard.

7.2 Performance Improvement Review

The Performance Improvement Review is implemented at the discretion of the line manager when it becomes necessary to help an employee improve their performance. The manager, with the help of the employee, will develop a Performance Improvement Plan (PIP) to help the employee attain the desired level of performance.

In all cases a Regional Operations Manager (or Head of Function) and HR will review the PIP. This will ensure consistency and fair treatment of employees across Milewood.

The line manager will monitor and provide feedback to the employee regarding their performance on the PIP and may take additional disciplinary action, if warranted, through the company's Disciplinary Policy.

For a performance improvement plan template, please refer to Appendix A, Performance Improvement Plan Form (PIP).

7.3 Incapability through ill-health

Incapability due to ill-health in this context is defined as any period of ill-health lasting more than four weeks.

It is Milewood's policy to support employees who are unwell and unable to come to work, and where an employee's absence is four weeks or more, actively manage their absence and subsequent return to work. (See Sickness Absence Policy – Long term sickness).

Milewood will adopt a case management approach when dealing with employees who are incapable of working due to ill-health. This means regularly reviewing an employee's absence/state of health in order to offer support to facilitate the employee's recovery and return to work.

Where there is long term ill health with no immediate prospects of a return to work or suitable redeployment opportunities, it may be necessary to consider termination of employment on the grounds of capability due to long term ill health.

8. Performance Improvement Review

The Performance Improvement Review process should be followed when performance has been identified as falling below an acceptable level. Its purpose is to provide a framework for resolving poor performance in a fair and supportive manner.

Where it is not possible to hold a face-to-face meeting under this procedure, we may conduct the process remotely.

A written record of all meetings conducted under the performance improvement review period should be made, either by the person holding the meeting or by an additional person arranged to take notes. We may digitally record any meeting conducted remotely under this procedure, provided that all parties agree. We will ensure that any such recording is made in line with our data protection obligations.

8.1 Determining Capability or Conduct

The first stage in dealing with poor performance is to determine whether the matter is one of capability or conduct. This can normally be ascertained by counselling and investigation (see Stage 1 – **Informal Meeting below**).

Incapability is where the employee has received all appropriate training but still cannot achieve a satisfactory level of performance through no fault of their own, for example as a result of ill-health.

However, if the employee fails to reach the required standard of performance as a result of carelessness, negligence or lack of effort, this will be treated under the **Disciplinary Policy** as **misconduct**.

8.2 Stage 1 - Informal meeting

The line manager will inform the employee of the nature of the problem, and they will be invited to an informal meeting to discuss concerns regarding their performance. The meeting will be conducted by their line manager.

Following the informal meeting, the line manager may choose to:

- take no further action;
- refer the matter for investigation under the disciplinary procedure; or
- issue guidance to the employee on what is needed to improve performance.

The above meeting should be documented and followed up by the line manager to ensure the employee has the necessary support to achieve the standards required for their role.

8.3 Stage 2 - Performance Improvement Review Meeting

Where Stage 1 does not lead to a satisfactory improvement in performance, the employee will be invited to a performance improvement review meeting.

The purpose of this meeting is to discuss the employee's performance and decide what measures should be taken to help improve the performance to an acceptable level. The meeting will be conducted by the line manager. Where it is considered appropriate, a member of the HR Team may also be present.

At the meeting, the employee will be given an opportunity to ask questions, comment on the issues and put forward any explanations for the matters identified as amounting to poor performance.

The outcome of the meeting may be:

- a decision to take no further action;
- a decision to refer the matter for investigation under the disciplinary procedure; or

- the implementation of a performance improvement plan (PIP) - see below.

8.4 Performance improvement plan (PIP)

A performance improvement plan is a series of measures designed to help the employee improve their performance. We will seek to agree each measure with the employee, but reserve the right to insist on any aspect of the PIP if agreement cannot be reached.

The PIP will specify areas that need improvement and resources that will be provided to support on-going development.

The Performance Improvement Plan Form serves as written confirmation of the commitment made by both the line manager and the employee throughout the process. This ensures that all parties are clear about future expectations, performance measures and possible outcomes.

The line manager should clearly:

- State performance to be improved, be specific and cite examples
- State the level of work performance expectation and that it must be performed on a consistent basis
- Identify and specify the support and resources you will provide to assist the employee
- Communicate your plan for providing feedback to the employee. Specify meeting times, with whom and how often. Specify the measurements you will consider in evaluating progress
- Specify possible consequences if performance standards are not met

If the issue is a lack of resources or facilities, this should be reviewed and assistance provided if appropriate. This will not necessitate a PIP in these instances.

The above discussions and review will be recorded on **Appendix A - Performance Improvement Plan Form**, completed by the Line Manager, and then signed by the Employee and Line Manager.

The PIP form should be reviewed by a Senior Manager and HR to ensure consistent and fair treatment of employees across the organisation.

The employee will be given a strong, supportive environment in which the manager's expectations for their success are a key factor.

Each programme will be tailored to the particular situation, but will cover the following elements:

Targets

The particular areas in which improved performance is needed and on what criteria the performance will be assessed. Where appropriate, we will set specific targets that will need to be achieved either by the end of the programme or at identifiable stages within it.

Timescale

The overall timescale in which the necessary improvement must be achieved, together with the timescale for reaching individual milestones where appropriate.

Measures

The measures we will take to support the employee in improving their performance. This may include:

- training;
- additional supervision;
- the reallocation of certain duties; and
- the provision of additional support from colleagues.

Feedback

The employee should be given regular feedback from their line manager indicating the extent to which they are on track to deliver the improvements set out in the programme. This should be recorded on the PIP form.

If, at any stage during the PIP, the line manager feels that performance is not progressing in a satisfactory way, a further meeting may be held to discuss this, and where appropriate, the plan may be amended and/or extended.

Review

At the end of the PIP, the employee's performance will be reviewed. If satisfactory progress has been made, we will confirm this in writing. If the line manager assesses that satisfactory progress has not been made, the PIP may be extended and/or amended. Alternatively, the employee may be asked to attend a formal hearing under Stage 3 of this procedure (see below).

Ongoing Review

Following the successful completion of a PIP, the employee's performance will continue to be monitored. If, at any stage the performance again starts to fall short of an acceptable standard, the line manager may decide to initiate Stage 3 of this procedure.

8.5 Stage 3 - Formal hearing

Where Stage 2 does not lead to a satisfactory improvement in performance, the employee will be invited to a formal performance management hearing.

The employee will be informed in writing of the grounds on which the hearing is being convened. The letter will set out sufficient information and examples of why the line manager believes the performance still falls short of an acceptable standard.

The hearing will be conducted by the line manager and a member of the HR department will be present where appropriate. The employee will be entitled to be accompanied by a fellow employee or a trade union official.

At the hearing, the employee will be given an opportunity to ask questions, comment on the issues and to put forward any explanation for the matters identified by their manager as amounting to poor performance.

The outcome of the meeting may be a decision to:

- take no further action;
- refer the matter for investigation under the disciplinary procedure;
- institute another PIP; or
- issue a formal warning.

A formal warning will be issued if it is concluded that reasonable steps have been taken that should have allowed the employee to perform to an acceptable standard, but that these measures have not worked. The warning will explain the nature of the improvement that is required for their performance and state the timescale for making these improvements. It will also explain that, if the necessary improvement does not take place, the employee may be dismissed.

The warning will remain current for a period of 12 months, after which it will cease to have effect.

Where a formal warning is issued in accordance with this procedure, the employee will have a right of appeal.

8.6 Stage 4 - Dismissal hearing

If the employee has been issued with a warning under Stage 3, that remains live, and the line manager believes that performance is still not acceptable, the matter may be referred to a performance dismissal hearing.

The employee will be informed in writing of the grounds on which the hearing is being convened. The letter will set out sufficient information and examples of why the line manager believes performance still falls short of an acceptable standard.

The hearing will be conducted by a senior manager, accompanied by a member of the HR Team. The employee will be entitled to be accompanied by a fellow employee or trade union official.

At the meeting, the employee will be given an opportunity to ask questions, comment on the issues and to explain any issues around their performance or mitigating circumstances.

The outcome of the meeting may be:

- a decision to take no further action;
- the issuing of another performance management warning;
- an offer to redeploy the employee to alternative work; or
- a decision to dismiss the employee.

Any offer to redeploy an employee will be entirely at Milewood's discretion. Such an offer will be made only where we are confident that the employee will be able to perform well in the redeployed role. It will normally be offered as an alternative to dismissal only in circumstances in which we are satisfied that the employee should no longer be allowed to continue to work in their current role.

The employee will be free to refuse any offer of redeployment, however the only alternative available after this will usually be dismissal.

If we believe that there is no alternative role available and suitable and the employee has not met an acceptable standard of performance, they may be dismissed.

The decision to dismiss, together with the reasons for dismissal, will be set out in writing and sent to the employee. Any dismissal will be with full notice or a payment in lieu of notice.

Where an employee is dismissed in accordance with this procedure, they will have a right of appeal.

8.7 Appeal

The employee has the right of appeal against a sanction issued under **Stages 3 or 4** of this procedure. A request for an appeal should be sent in writing to the Head of People and Culture within seven days of being informed of the sanction. The letter should set out the grounds on which the employee believes that the decision was flawed or unfair.

An appeal hearing will be convened to consider the matter. Where possible, it will be chaired by a more senior manager than the manager who conducted the original hearing, together with a member of the HR team. The employee will be entitled to be accompanied by a fellow employee or a trade union official.

At the hearing, the decision to impose the sanction will be reviewed and the employee will be entitled to make representations about the appropriateness of that decision.

The result of the hearing will be either to confirm the sanction, or substitute any outcome that was available to the panel conducting the hearing at which the sanction was imposed.

The outcome of the appeal will be confirmed to the employee in writing, explaining the grounds on which the decision was reached. The outcome of the appeal will be final.

Related Policies and Other References

This policy should be read in conjunction with our other policy guidelines:

- Staff Handbook
- Disciplinary Policy
- Sickness Absence Policy
- Probation Policy
- Training Policy
- Performance Management Framework

CQC Fundamental Standards	
Regulation Number	Regulation Details
Regulation 19 – Fit and Proper Persons employed	To employ 'fit and proper' staff who are able to provide care and treatment appropriate to their role and to enable them to provide the regulated activity.

Links to Related Legislation / Best Practice

Employment Rights Act 1996
Employment Act 2008
The Equality Act 2010
Employment Rights Act 1996
Working Time Regulations 1998
Data Protection Act 1998
Employee Relations Act 1999
The Trade Union and Labour Relations Act 1992
The Health and Social Care Act 2008 (Regulated Activities)
ACAS Code of Practice on Disciplinary and Grievance Procedures

Authorisation and Signature

This Policy is the authorised version agreed by the Owners. The policy is also Authorized by the CEO of Milewood Health Care and their associated organisations. All employees are expected to follow this policy and failure to do so could result in disciplinary action.

Approved by Owner Head of HR - Signature:	Dan Blackith
Date:	21/03/2025
Approved by Owner, Head of Quality- Signature:	Jill Roberts
Date:	21/03/2025



Appendix A: PERFORMANCE IMPROVEMENT PLAN (PIP)

Employee Name		Managers Name		PIP Start Date	
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PERFORMANCE/SKILL/BEHAVIOUR REQUIRING IMPROVEMENT <i>List the skills, behaviours, duties or actions that need to improve, in line with the job description. How is it currently not being achieved. Be specific.</i>	DESIRED OUTCOME <i>What steps or actions need to be taken to reach the improvement? What is the required improvement?</i>	SUCCESS MEASURE <i>What does improvement look like? How will it be demonstrated</i>	DEVELOPMENT OPPORTUNITIES/ RESOURCES / SUPPORT <i>What training, resources or support are needed to improve? How can these be Applied. Who is responsible for implementing these</i>	WHEN WILL THE IMPROVEMENT BE MADE BY? <i>Ensure timescales are realistic and achievable</i>

Please use this space to document the discussion during the initial PIP meeting and subsequent review meetings. This should include a summary of the discussion which took place, any progress and next steps.

Manager comments

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Employee Comments

Empty box for Employee Comments. A large, light gray watermark reading "ORIGINAL" is diagonally overlaid across the page.

Next review date:

Employee Signature:

Date:

Manager Signature:

Date: