



The Victoria Inn - Threemilestone  
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The Norway Inn – Perranarworthal

**"A warm welcome with pub grub - at our tables or delivered to yours"**

## **CAPABILITY POLICY**

### **Introduction**

The primary aim of this capability procedure is to provide a framework within which Inn Cornwall Limited can work with employees to maintain satisfactory performance standards and to encourage improvement where possible. Inn Cornwall Limited recognises the difference between a deliberate or careless failure on the part of the employee to perform to the standards of which they are capable, in which case the Disciplinary Procedure will be used, and a case of incapability, where the employee is lacking in knowledge, skill or ability and so cannot perform to the standard required. In this latter case, Inn Cornwall Limited will use this procedure in an attempt to improve the employee's performance.

Inn Cornwall Limited also recognises that during an employee's employment their capability to carry out their duties may deteriorate. This can be for a number of reasons, the most common ones being that either the job changes over a period of time and the employee fails to keep pace with the changes, or the employee changes and can no longer cope with the work.

This capability procedure is entirely non-contractual and does not form part of an employee's contract of employment.

### **Scope**

The capability procedure applies to employees following successful completion of their probationary period. Inn Cornwall Limited reserves the right not to apply the procedure outlined if an employee has less than 2 years' service.

### **Considerations**

Employees will not normally be dismissed for performance reasons without previous warnings. However, in serious cases of gross negligence, or in any case involving an employee who has not yet completed their probationary period, dismissal without previous warnings may be appropriate.

### **Confidentiality**



Our aim is to deal with performance matters sensitively and with due respect for the privacy of any individuals involved. All employees must treat as confidential any information communicated to them in connection with a matter which is subject to this capability procedure.

You and anyone accompanying you (including witnesses) must not make electronic recordings of any meetings or hearings conducted under this procedure.

You will normally be told the names of any witnesses whose evidence is relevant to your capability hearing, unless we believe that a witness's identity should remain confidential.

### **Procedure**

Before taking a decision to dismiss an employee on the grounds of poor performance due to a genuine lack of capability, Inn Cornwall Limited will, as a general rule and subject to any permitted statutory exceptions, comply with the following informal and formal stages.

### **Informal Stage**

Before the formal stage is engaged, the employee should receive feedback from their manager setting out the concerns about the employee's performance and how performance can be improved.

Minor capability issues should also be dealt with informally. The aim of informal discussions will be with a view to clarifying the required work standards and the level of performance expected of the employee, identifying areas of concern, establishing the likely causes of poor performance, identifying any training or supervision needs, setting targets for improvement and agreeing a time-scale for review.

In cases where informal discussion with the employee does not lead to a satisfactory improvement in performance, or where the performance issues are more serious, the formal capability procedure will be used. At all stages of the procedure an investigation will be carried out.

Inn Cornwall Limited will also give consideration to whether the unsatisfactory performance is related to a disability and, if so, whether there are any reasonable adjustments that could be made to the requirements of the employee's job or other aspects of the working arrangements.

### **Formal procedure - Stage 1**

Where the informal stage does not lead to a satisfactory improvement in the employee's performance, the employee will be invited to a capability review meeting providing at least 2 days' notice of the meeting. Inn Cornwall Limited will notify the employee of the basis of the alleged poor performance. The employee must take all reasonable steps to attend that meeting.

The purpose of a capability review meeting is to discuss the employee's performance and decide what measures should be taken, with a view to securing the required improvement in the employee's



performance. The meeting will be conducted by the employee's manager. Where it is considered appropriate by Inn Cornwall Limited a member of Inn Cornwall Limited may also be present.

The employee will be given an opportunity to respond to any criticisms of his/her performance and to put forward any explanation he/she may have for the matters identified by the manager 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
- The implementation of a programme, designed to bring the employee's performance up to an acceptable level. The improvement programme is a series of measures designed to help improve the employee's performance. Each measure will ideally be agreed with the employee, although Inn Cornwall Limited reserves the right to insist on any aspect of the programme in the absence of such agreement.

#### **Each programme will be tailored to the particular situation, but will contain some or all of the following elements:-**

- **Timescale**  
The overall timescale in which the necessary improvement must be achieved will be set out, together with the timescale for reaching individual milestones where appropriate.
- **Targets**  
Specify the particular areas in which improved performance is needed and set out how, and on what criteria, the employee's performance will be assessed. Where appropriate, specific targets will be set that will need to be achieved either by the end of the programme or at identifiable stages within it.
- **Measures**  
Specify what measures will be taken by Inn Cornwall Limited to support the employee in improving their performance. Such measures may include training, additional supervision, the reallocation of other duties or the provision of temporary or permanent additional support from colleagues.

#### **Feedback**

As part of the programme, the employee will be given regular feedback from their line manager indicating the extent to which the employee is on track to deliver the improvements set out.

If, at any stage, Inn Cornwall Limited feels that the improvement programme is not progressing in a satisfactory way, a further meeting may be held with the employee to discuss the issue. As a result of such a meeting, Inn Cornwall Limited may amend or extend any part of the programme.



## Review

At the end of the review period, the employee's performance will be reviewed. If satisfactory progress has been made, the employee will be notified of this fact in writing. However, if the line manager feels that progress has been insufficient, the programme may be extended to such extent as the line manager considers appropriate. Alternatively, the matter may proceed to the next stage of this procedure.

## Ongoing review

Following the successful completion of the improvement programme, the employee's performance will continue to be monitored. If, at any stage during the following 12 months, the employee's performance again starts to fall short of an acceptable standard, the line manager may decide to initiate stage 2 of this procedure.

## Formal procedure - Stage 2

If the improvement programme as set out in stage 1 has not led to sufficient improvement in the employee's performance, the employee will be invited to attend a stage 2 capability meeting. The invitation will set out the respects in which the employee's line manager believes that the employee's performance still falls short of an acceptable standard.

The meeting will be conducted by the employee's line manager and a member of Inn Cornwall Limited. Additional individuals may also be asked to attend, for example a health and safety, or occupational health representative. 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 respond to any criticism of their performance and to make representations about any aspect of, or the reasons for, their 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 improvement programme
- Issue a formal warning to the employee.

A formal warning will be issued if the hearing concludes that reasonable steps have been taken by Inn Cornwall Limited 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 in the employee's performance and state that the improvement must be immediate and sustained. 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 the warning will remain on file as a record of events, but it will cease to have effect.



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Where an employee is issued with a formal warning in accordance with this procedure, he/she will have a right of appeal.

### **Formal procedure - Stage 3**

If an employee has been issued with a warning under stage 2 that remains live and the employee's line manager believes that their performance is still not acceptable, the matter may be referred to a capability dismissal hearing.

The employee will be informed in writing of the grounds on which the hearing is being held. In particular, they will be told of the aspects in which performance remains below an acceptable level.

The hearing will be conducted by a senior manager, accompanied by Inn Cornwall Limited representative. The employee will be entitled to be accompanied by a fellow employee or trade union official.

At the meeting, the employee will have the opportunity to respond to any criticisms made of their performance and make representations about how the situation should be treated.

### **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
- A decision to dismiss the employee.

Any offer to redeploy the employee will be entirely at Inn Cornwall Limited's discretion. Such an offer will be made only where Inn Cornwall Limited is confident that the employee will be able to perform well in the redeployed role. It will normally be offered only as an alternative to dismissal in circumstances in which the Inn Cornwall Limited is satisfied that the employee should no longer be allowed to continue to work in his/her current role. While the employee is free to refuse any offer of redeployment, the only alternative available will usually be dismissal.

If Inn Cornwall Limited believes that there is no alternative role available and suitable for the employee, but that he/she has not met an acceptable standard of performance, the Inn Cornwall Limited may decide to dismiss. Any dismissal will be with full notice or payment in lieu of notice. The decision to dismiss together with the reasons for dismissal will be set out in writing and sent to the employee.

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

Right to be accompanied



You may bring a companion to any formal capability or appeal hearing as described under stage 1-3 above. The companion may be a trade union representative, a trade union official or a fellow worker. If the employee wishes to be represented by a trade union representative, who is not an employed official they must have been certified by their union as being competent to accompany a worker in disciplinary meetings.

You must tell the chair who your chosen companion is, in good time before the capability meeting.

Acting as a companion is voluntary and your colleagues are under no obligation to do so.

Workers will be allowed reasonable time off from duties without loss of pay to act as a companion.

The employee's companion is allowed to speak at any meetings and confer with the employee. However, the companion must not answer questions on the employee's behalf, or speak if the employee does not wish it, or prevent the manager at the meeting from explaining Inn Cornwall Limited's case.

You may confer privately with your companion at any time during the hearing.

**If your choice of companion is unreasonable we may ask you to choose someone else, for example if:-**

- In our opinion your companion may have a conflict of interest or may prejudice the hearing
- Your companion sits on the management line or above the person who is conducting the disciplinary
- Your companion works at another site and someone reasonably suitable is available at the site at which you work.

If the employee's companion cannot attend any meeting, then the employee is entitled to have the meeting postponed by up to 5 working days. The employee must inform the manager as soon as possible if they wish to request a postponement of the meeting. An employee can change their chosen companion without waiving their right to change again.

## Appeals

If the employee wishes to appeal against Inn Cornwall Limited's decision, they can do so within one week of the written notification of the Inn Cornwall Limited's decision. Appeals must be made in writing and state the grounds for appeal.

The employee will be invited to attend an appeal meeting. A manager, who has ideally not been previously involved in the employee's case, will invite the employee to an appeal meeting. The manager will consider the representations made by the employee, the employee's companion or trade union official, if applicable, and those of the manager who conducted the investigation and imposed the disciplinary sanction. At the appeal meeting, the employee will be given the chance to state their case



and will have the right to be accompanied by a trade union official or a fellow employee of their choice. Following the appeal meeting, the employee will be informed of the appeal decision in writing. The Inn Cornwall Limited's decision on an appeal will be final.

*Policy updated March 2021*

*Mark Holden – Company Director*



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