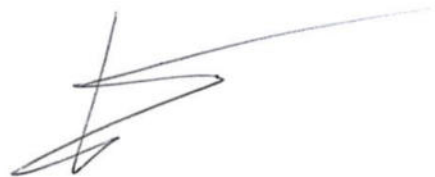


Performance Capability Policy

Rev1

Issued April 2024

Managing Director - Kevin Hague



POLICY STATEMENT

1.1 This policy applies to all companies within Aarsleff Ground Engineering Ltd UK and Avoncross Ltd, including companies trading as Centrum Pile and Cannon Piling (referred to in this statement as 'The Company').

1.2 This policy is non-contractual and the Company reserves the right to amend or withdraw the policy at any time at the Company's discretion.

1.3 The primary aim of the Performance Capability Policy is to provide a framework (Performance Improvement Process PIP) within which line managers can work with employees to maintain satisfactory performance standards and to encourage improvement where necessary.

1.4 It is our policy to ensure that concerns over performance are dealt with fairly and that steps are taken to establish the facts and to give employees the opportunity to respond at a hearing before any formal action is taken.

1.5 This policy does not apply to cases involving genuine sickness absence, proposed redundancies or misconduct.

1.6 This policy applies to all employees regardless of length of service. However, we may depart from this procedure where appropriate (including but not limited to during an employee's probationary period). It does not apply to agency workers or self-employed contractors.

1.7 We retain discretion in respect of the capability procedures to take account of your length of service and to vary the procedures accordingly. If you have under two years' service (short service) you may not be in receipt of any warnings before dismissal is considered.

2. IDENTIFYING PERFORMANCE ISSUES

2.1 In the first instance, performance issues should normally be dealt with informally between you and your line manager as part of day-to-day management. Where appropriate, a note of any such informal discussions may be placed on your personnel file but will be ignored for the purposes of any future capability hearings. The formal Performance Improvement Process (PIP) should be used for more serious cases, or in any case where an earlier informal discussion has not resulted in a satisfactory improvement. Informal discussions may help:

2.1.1 Clarify the required standards;

2.1.2 Identify areas of concern;

2.1.3 Establish the likely causes of poor performance and identify any training needs; and/or

2.1.4 Set targets for improvement and a time-scale for review.

2.2 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.

2.3 If we have concerns about your performance, we will undertake an assessment to decide if there are grounds for taking formal action under this policy. The Performance Improvement Process (PIP) will depend on individual circumstances but may involve reviewing employees personnel file including any appraisal records, gathering any relevant documents, monitoring your work and, if appropriate, interviewing you and/or other individuals confidentially regarding your work.

3. DISABILITIES

3.1 Consideration will be given to whether poor performance may be related to a disability and, if so, whether there are reasonable adjustments that could be made to your working arrangements, including changing your duties or providing additional equipment or training. We may also consider making adjustments to this procedure in appropriate cases.

3.2 If you wish to discuss this or inform us of any medical condition you consider relevant, you should contact your line manager.

4. JOB CHANGES

4.1 We recognise that during your employment with us your capability to carry out your duties may deteriorate. This can be for a number of reasons, the most common being that either the job changes over a period of time and you fail to keep pace with the changes, or you change (most commonly because of health reasons) and you can no longer cope with the work.

4.2 If the nature of your job changes or if we have general concerns about your capability to perform your job, we will try to ensure that you understand the level of performance expected of you and that you receive adequate training and supervision. Concerns regarding your capability will normally first be discussed in an informal manner and you will be given time to improve.

4.3 If your standard of performance is still not adequate you will be subject to the PIP process.

5. PERSONAL CIRCUMSTANCES/HEALTH ISSUES

5.1 Personal circumstances may arise which do not prevent you from attending work but which do prevent you from carrying out your normal duties (e.g. a lack of dexterity). If such a situation arises, we will normally need to request details of your medical diagnosis and prognosis so that we have the benefit of expert advice. Under normal circumstances this will be obtained by asking your own doctor for a medical report or by conducting an Occupational Health referral. Your permission is needed before we can obtain this information and we will expect you to co-operate in this matter should the need arise.

5.2 When we have obtained as much information as possible regarding your condition, and after consultation with you, a decision will be made about your future employment with us, either in your current role, or where circumstances permit, in a more suitable role.

5.3 There may also be personal circumstances which prevent you from attending work, either for a prolonged period(s) or for frequent short absences. Under these circumstances we will need to know when we can expect your attendance record to reach an acceptable level. This may again mean asking your own doctor for a medical report, an Occupational Health referral or by making whatever investigations are appropriate in the circumstances.

5.4 When we have obtained as much information as possible regarding your condition, and after consultation with you, a decision will be made about your future employment with us, either in your current role, or where circumstances permit, in a more suitable role.

6. CONFIDENTIALITY

6.1 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.

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

6.3 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.

7. NOTIFICATION OF A PIP MEETING

7.1 If we consider that there are grounds for taking formal action over alleged poor performance, you will be required to attend a PIP meeting. We will notify you in writing of our concerns over your performance, the reasons for those concerns, and the likely outcome if we decide after the meeting that your performance has been unsatisfactory. We will also include the following where appropriate:

7.1.1 A summary of relevant information gathered as part of any investigation.

7.1.2 A copy of any relevant documents which will be used at the PIP meeting.

7.1.3 A copy of any relevant witness statements, except where a witness's identity is to be kept confidential, in which case we will give you as much information as possible while maintaining confidentiality.

7.2 We will give you written notice of the date, time and place of the PIP meeting. The meeting will be held as soon as reasonably practicable, but you will be given a reasonable amount of time of at least 48 hours' notice, to prepare your case based on the information we have given you.

8. RIGHT TO BE ACCOMPANIED AT HEARINGS

8.1 You may bring a companion to any formal PIP meeting or appeal meeting under this policy. The companion may be either a trade union representative or a colleague. You must inform the line manager conducting the meeting who your chosen companion is, in good time before the meeting.

8.2 A companion is allowed reasonable time off from duties without loss of pay but no-one is obliged to act as a companion if they do not wish to do so.

8.3 If your companion is unavailable at the time a meeting is scheduled and will not be available for more than five working days, we may require you to choose someone else.

8.4 We may, at our discretion, allow you to bring a companion who is not a colleague or union representative where this will help overcome a particular difficulty caused by a disability, or where you have difficulty understanding English.

9. PROCEDURE AT PIP MEETINGS

9.1 If you or your companion cannot attend the meeting you should inform us immediately and we will usually arrange an alternative time. You must make every effort to attend the meeting, and failure to attend without good reason may be treated as misconduct. If you fail to attend without good reason or are persistently unable to do so (for example, for health reasons), we may have to take a decision based on the available evidence including any written representations you have made.

9.2 The hearing will normally be held by your line manager and a member of the HR Department. You may bring a companion with you to the meeting (see paragraph 6). Your companion may make representations, ask questions, and sum up your case, but will not be allowed to answer questions on your behalf. You may confer privately with your companion at any time during the meeting.

9.3 You may ask relevant witnesses to appear at the meeting, provided you give us sufficient advance notice to arrange their attendance. You will be given the opportunity to respond to any information given by a witness. However, you will not normally be permitted to cross-examine witnesses unless, in exceptional circumstances, we decide that a fair meeting could not be held otherwise.

9.4 The aims of a PIP meeting will usually include:

9.4.1 Setting out the required standards that we believe you may have failed to meet and going through any relevant evidence that we have gathered.

9.4.2 Allowing you to ask questions, present evidence, call witnesses, respond to evidence and make representations.

9.4.3 Establishing the likely causes of poor performance including any reasons why any measures taken so far have not led to the required improvement.

9.4.4 Identifying whether there are further measures, such as additional training or supervision, which may improve performance.

9.4.5 Where appropriate, discussing targets for improvement and a timescale for review.

9.4.6 If dismissal is a possibility, establishing whether there is any likelihood of a significant improvement being made within a reasonable time and whether there is any practical alternative to dismissal, such as redeployment.

9.5 A meeting may be adjourned if we need to gather any further information or give consideration to matters discussed at the meeting. You will be given a reasonable opportunity to consider any new information obtained before the meeting is reconvened.

9.6 We will inform you in writing of our decision and our reasons for it, where possible we will also explain this information to you in person.

10. STAGE 1 PIP MEETING: FIRST WARNING OF REQUIRED IMPROVEMENT

10.1 Following a Stage 1 PIP meeting, if we decide that your performance is unsatisfactory, we will issue you a first warning of required improvement, setting out:

10.1.1 The areas in which you have not met the required performance standards.

10.1.2 Targets for improvement.

10.1.3 Any measures, such as additional training or supervision, which will be taken with a view to improving performance.

10.1.4 A period for review.

10.1.5 The consequences of failing to improve within the review period, or of further unsatisfactory performance.

10.2 The warning will normally remain active for six months from the end of the review period. After the active period the warning will remain on your personnel file but will be disregarded in deciding the outcome of any future capability proceedings.

10.3 Your performance will be monitored during the review period, and we will write to inform you of the outcome:

10.3.1 If your line manager is satisfied with your performance, no further action will be taken;

10.3.2 If your line manager is not satisfied, the matter may be progressed to a Stage 2 PIP meeting;
or

10.3.3 If your line manager feels that there has been a substantial but insufficient improvement, the review period may be extended.

11. STAGE 2 PIP MEETING: FINAL WARNING OF REQUIRED IMPROVEMENT

11.1 If your performance does not improve within the review period set out in a first warning of required improvement, or if there is further evidence of poor performance while your first warning of required improvement is still active, we may decide to hold a Stage 2 PIP meeting. We will send you written notification as set out in paragraph 5.

11.2 Following a Stage 2 PIP meeting, if we decide that your performance is unsatisfactory, we will give you a final warning of required improvement, setting out:

11.2.1 The areas in which you have not met the required performance standards;

11.2.2 Targets for improvement;

11.2.3 Any measures, such as additional training or supervision, which will be taken with a view to improving performance;

11.2.4 A period for review; and

11.2.5 The consequences of failing to improve within the review period, or of further unsatisfactory performance.

11.3 A final warning of required improvement will normally remain active for twelve months from the end of the review period. After the active period, the warning will remain on your personnel file but will be disregarded in deciding the outcome of future capability proceedings.

11.4 Your performance will be monitored during the review period, and we will write to inform you of the outcome:

11.4.1 If your line manager is satisfied with your performance, no further action will be taken;

11.4.2 If your line manager is not satisfied, the matter may be progressed to a Stage 3 PIP meeting; or

11.4.3 If your line manager feels that there has been a substantial but insufficient improvement, the review period may be extended.

12. STAGE 3 PIP MEETING: CAPABILITY DISMISSAL

12.1 We may decide to hold a Stage 3 PIP meeting if we have reason to believe:

12.1.1 Your performance has not improved sufficiently within the review period set out in a final warning of required improvement;

12.1.2 Your performance is unsatisfactory while a final warning of required improvement is still active.

12.2 Following the hearing, if we find that your performance is unsatisfactory, we may consider a range of options including:

12.2.1 Dismissing you.

12.2.2 Redeploying you into another suitable job at the same or a lower grade (as an alternative to dismissal).

12.2.3 Extending an active final warning of required improvement and setting a further review period (in exceptional cases where we believe a substantial improvement is likely within the review period).

12.3 Dismissal will normally be with full notice or payment in lieu of notice.

13. APPEALS AGAINST ACTION FOR POOR PERFORMANCE

13.1 If you feel that a decision about poor performance under this policy is wrong or unjust you should appeal in writing, stating your full grounds of appeal, within one week of the date on which you were informed in writing of the decision.

13.2 If you are appealing against dismissal, the date on which dismissal takes effect will not be delayed pending the outcome of the appeal. However, if your appeal is successful, you will be reinstated with no loss of continuity or pay.

13.3 If you raise any new matters in your appeal, we may need to carry out further investigation. If any new information comes to light, we will provide you with a summary including, where appropriate, copies of additional relevant documents and witness statements. You will have a reasonable opportunity to consider this information before the hearing.

13.4 We will give you written notice of the date, time and place of the appeal hearing. This will normally be two to seven days after you receive the written notice.

13.5 The appeal hearing may be a complete re-hearing of the matter, or it may be a review of the fairness of the original decision in the light of the procedure that was followed and any new information that may have come to light. This will be at our discretion depending on the circumstances of your case. In any event the appeal will be dealt with as impartially as possible.

13.6 The appeal hearing will be conducted by a line manager who has not been previously involved in the case. The line manager who conducted the PIP meeting will also usually be present. You may bring a companion with you to the appeal hearing (see paragraph 6).

13.7 A hearing may be adjourned if we need to gather any further information or give consideration to matters discussed at the hearing. You will be given a reasonable opportunity to consider any new information obtained before the hearing is reconvened.

13.8 Following the appeal hearing we may:

13.8.1 Confirm the original decision;

13.8.2 Revoke the original decision; or

13.8.3 Substitute a lower sanction.

13.9 We will inform you in writing of our final decision as soon as possible. Where possible we will also explain this to you in person. There will be no further right of appeal.