

CAPABILITY POLICY

1. INTRODUCTION

This policy has been established to help and support staff to achieve and maintain standards of job performance consistent with their terms and conditions of service. It provides a fair and consistent method for dealing with situations where a member of staff has not willfully or deliberately fallen short of required performance standards, but where a lack of skill, knowledge or aptitude is preventing them from performing at the required level. It is important for managers to address performance issues at an early stage; delaying or doing nothing will only exacerbate the situation.

Capability procedures are not appropriate in the event of alleged misconduct or where it appears under-performance is deliberate or willful. In such circumstances, disciplinary procedures are a more appropriate course of action. Our Sickness Absence Policy sets out arrangements for dealing with cases of frequent or long-term sickness absence. Nonetheless, if a capability case encompasses both performance and absence issues, the arrangements set out in this policy will usually apply.

2. SCOPE

Other than staff on probation, these procedures apply to all employees. Issues relating to conduct during an employee's probationary period will be managed in line with the Guidance for Managing Probation. Issues relating to conduct during an employee's probationary period will be managed in line with the Guidance for Managing Probation. Issues relating to absence at work will be managed in line with the Absence Management Policy. Issues relating to performance will be managed in

line with the Managing Capability Policy. Issues relating to relating to conduct in all work- and work-related settings will be managed in line with the Disciplinary Policy.

3. PROCEDURE: INFORMAL PROCESS

Before embarking on formal capability procedures, managers must first consider the circumstances of the apparent under-performance. There are two key questions to be considered:

- Has the required performance standard been defined and clearly communicated to the employee?
- Are these standards achievable in the circumstances, or are external factors having an adverse effect (such as poor systems, equipment breakdown, unclear instructions, ill health, disability, lack of time/resource, no induction/appraisal undertaken with clear objectives set, change of role etc.).

Managers must bring concerns about standards of work, output, or quality to the attention of the employee concerned as soon as possible. This may be done through a specially convened meeting or through normal one-to-one procedures. It is not usually appropriate to delay raising concerns until an appraisal meeting.

During this informal period, managers must:

- Ensure the staff member is aware of the required standards and how their own performance compares
- Listen to the staff member's views
- Try to give balanced feedback reflecting positives as well as negatives
- Ensure appropriate training and supervision is in place to support the staff member
- Ensure reasonable adjustments are made to support staff with disabilities
- Consider what steps may reasonably be taken to help staff manage work/life demands
- Follow up meetings promptly with notes to confirm outcomes and agreed timescales; an e-mail setting out the key points discussed and agreed actions will usually suffice
- Should a manager required further guidance and support regarding this stage of the process they should speak with their People Business Partner.

After a reasonable period, the manager should meet with the individual again, if there is limited or no progress, the manager should then consider progressing to the formal procedure

4. PROCEDURE: FORMAL PROCESS

Prior to embarking on formal capability procedures, managers can discuss the issues with their People Business Partner so that appropriate guidance and advice can be given if required.

Step 1: Formal Meeting

A formal capability meeting will usually be conducted by the line manager, assisted by a notetaker if required.

- The purpose of the meeting is to make the staff member aware they are not performing to the required standard, to set a reasonable review period for improvement, and to establish any further support measures, which may include further training, closer supervision and/or mentoring.
- The staff member will be notified of the date, time and venue for the meeting by the line manager, the purpose of the meeting, and must be advised that they may be accompanied by a work colleague employed by the university or trade union representative only.
- If the staff member or their preferred representative is unable to attend on the date given, they may suggest a reasonable alternative date provided this is within five working days of the original date offered.
- Where availability of the preferred representative is a continuing difficulty, the staff member may be obliged to find an alternative person to accompany them.
- The meeting is investigatory in nature; it is not part of a disciplinary procedure. During the meeting, the staff member must be given specific instances of their shortfall in performance.
- The staff member must be given the opportunity to say whether they agree there is a problem and what they think might be the root cause.
- There should be a discussion about what could be done by all parties to ensure an immediate and sustained improvement in performance and a [Capability Improvement Plan](#) developed.
- If the manager conducting the meeting is satisfied appropriate and reasonable help and support has been offered to the staff member prior to the formal meeting, a formal written warning will be issued at this stage.

A written summary of the outcomes of the meeting should be drafted by the manager and a copy will be sent to the staff member confirming:

- The performance issues discussed including required standards and past shortcomings.
- The agreed improvement plan, including any specific actions agreed for additional support and/or training, and frequency of planned supervision.
- The timescale in which improvements must be achieved depending on the nature of the job usually a period of 1-3 months will be appropriate however depending on the nature of the improvement a shorter period may be more appropriate.

- If appropriate, details of any formal warning issued specifying the date the warning was given and the period for which the warning will apply.
- Agree a date for the Step 2 review meeting. In some circumstances it may be appropriate to meet more than once to develop an agreed improvement plan.
- Formal written warnings are placed on the personal file but will expire after 12 months.

Step 2: Formal Review Meeting

The purpose of this meeting is to review the outcomes of the improvement plan and decide what further action is required.

- The meeting will normally be conducted by the manager who led the previous formal meeting, assisted by a member of the POD team.
- As before, the staff member will be notified of the date, time and venue for the meeting, the purpose of the meeting, and will be advised they may be accompanied by a work colleague or trade union representative. If they are unavailable, the same guidelines apply as per Step 1.
- Again, the meeting is formal and important but should be investigatory in style, affording the staff member the opportunity to state their point of view.

Possible outcomes of this meeting are:

- Performance has improved to a satisfactory level. In these circumstances it may be appropriate to plan one or more further formal reviews to ensure the improvement is sustained.
- Performance has improved considerably but continues to fall short of the required standard necessitating a further improvement plan and a second formal written warning.
- Performance continues to fall short of the required standard and the staff member transfers to an alternative employment (see below), where such a job exists and where the staff member is willing to transfer.
- Dismissal (see point 7). The People Business Partner must be consulted prior to any meeting that may end in dismissal.

5. REASONABLE ADJUSTMENTS

While disability is in no way routinely associated with performance problems, managers must consider the possibility that under-performance is the result of a disability. If this is the case, there is a statutory duty to make reasonable adjustments to the working arrangements to help reduce the disadvantage the staff member might otherwise experience. For example, it may be reasonable to provide specialist equipment to assist the staff member or to re-organise work allocation within a team. The manager may wish to seek advice from your People Business Partner

6. REDEPLOYMENT

While there is no positive duty on employers to create a job for a member of staff who is incapable of performing his or her own job, opportunities for redeployment will be considered before resorting to dismissal on grounds of capability. The POD team will assist by identifying vacancies for which the member of staff concerned meets the minimum criteria described in the person specification.

Vacancies will not normally be held for longer than 3 working days while a member of staff considers whether it may present a suitable alternative. If the member of staff wishes to be considered for such a post, they will usually be invited to attend for an interview with the recruiting manager. They may also be asked to undertake job related tests.

If it appears the individual could reasonably do the alternative job after a reasonable amount of training, and is willing to be transferred to it, the appointment should be offered. The job may be offered based on a 12-week trial period if additional training is required. In the event of redeployment to an alternative post of a lower grade because of capability proceedings, salary protection will not be available.

7. DISMISSAL

Dismissal on grounds of capability may not occur unless at least one formal written warning has been issued. If dismissal is a possible outcome of any meeting, the member of staff must be notified in writing of this possibility in advance of the meeting. Managers considering dismissal on grounds of capability must consult with their People Business Partner prior to dismissal.

8. THE RIGHT TO APPEAL

Employees have a right of appeal against a written warning or dismissal. Such appeals will be heard by a senior member of staff of the University at least one level above the dismissing manager and not previously involved in the case.

Appeals must be submitted in writing to the dismissing manager (or other person so determined by the university) within 5 working days of receipt of the letter notifying the outcome of the meeting.

[Equality Impact Assessment](#)