



Capability Procedure

There are times when employees find it difficult to attain the necessary minimum acceptable standard required in order to carry out their job. The University recognises that in such circumstances unsatisfactory performance could more appropriately be dealt with outside the Disciplinary Procedure.

Accordingly, a fair and effective procedure is provided to enable management to respond to unsatisfactory performance in such circumstances. This includes the provision of reasonable training and help where appropriate, or seeking suitable alternative employment where practical.

There may, however, be circumstances in which a formal warning is judged to be necessary. Such a warning may also be taken into account if there are any disciplinary findings against the employee and the warning is still on file.

Procedure

1. If it is considered that an employee's standard of performance has fallen below an acceptable and required level the Head of Department/Manager will initially conduct an informal discussion with the employee and detail the areas of concern. He/she will be invited to bring a representative, who should be a union representative or a work colleague of his/her reasonable choice, if he/she wishes. The meeting can be postponed for up to 48 hours if a representative is unavailable at the proposed time. He/she will then listen to the explanation and discuss how improvements can be achieved (this might include formal training, or more day-to-day help and advice). The Head of Department/Manager will confirm the agreed outcome of this meeting in writing to the employee. The agreed outcome of the meeting will normally include determining targets and a timeframe for reaching these targets.

A reasonable time is then allowed in which performance and improvement are monitored. This will not normally be less than 8 weeks.

2. If there has been no improvement or any improvement has not been sustained the employee will be invited to attend a formal interview to discuss the matter. He/she will be given a minimum of 5 working days notice of the meeting, told the reasons for it and invited to bring a representative who should be a union representative or a work colleague of his/her reasonable choice, if he/she wishes. The meeting can be postponed for up to 48 hours if a representative is unavailable at the proposed time.

3. At the interview the Head of Department/Manager will provide full details of the areas of concern, including the steps taken to encourage improvement and where the agreed targets have not been met. The employee will have an opportunity to raise any points they wish.

If the employee gives no acceptable explanation about his/her failure to improve or sustain any improvement, then a formal written warning will be issued.

This will remain on the employee's personal file for 12 months. This warning will also confirm that a failure to achieve or sustain a satisfactory standard may place the employee's continued employment at risk.

A further period allowing reasonable time for improvements to be made will then be agreed. This will not normally be less than 8 weeks. Further training and support will be provided whilst supervision and monitoring (including note taking) will continue.

4. If at the end of this reasonable period the necessary improvements have still not been made and/or sustained, a formal meeting will be arranged as before. The employee will again be given a minimum of 5 days notice of the meeting, told of the reasons for the meeting and invited to bring a representative who should be a work colleague or union representative, if they wish. The meeting can be postponed for up to 48 hours if a representative is unavailable at the proposed time.

The objective of this meeting is for the Head of Department/Manager to determine whether it would be appropriate to extend the period for improvement due to mitigating circumstances or whether to recommend to the appropriate Vice-Principal that the employee should be dismissed.

5. In the case of a proposed dismissal of an Academic member of staff the Head of Department/Manager will make his/her recommendation to the Principal and the appropriate Vice-Principal.
6. The Principal or Vice-Principal, as appropriate, will advise the employee in writing that his/her dismissal has been recommended and the reasons for this. He/she will then be invited to attend a meeting with the Principal/Vice-Principal to make representations about the case. The Human Resources Manager will be present at this meeting and the employee will be entitled to be represented by a work colleague or union representative, if they wish. This meeting will be held as soon as possible after the employee has been advised that a recommendation to dismiss has been made but with at least 24 hours notice.

If, after this meeting, the Principal/Vice-Principal decides to dismiss the employee he/she will be advised of this decision in writing. At the same time he/she will be advised of his/her right to appeal against this decision.

7. An employee has a right to appeal against this decision if he/she believes that:
- not all the facts were available at the time the decision was made, and/or;
 - the procedures were not applied correctly, and/or;
 - the decision made was unreasonable.

An appeal must be made in writing and should be addressed to the Human Resources Manager. This must be done within 7 working days of the date of the dismissal letter. In the case of an Academic member of staff, the Human Resources Manager will forward the appeal to the Governors. The Governors may appoint a committee to act on their behalf.

For all other staff, the appeal will be passed to the Principal, unless he/she was involved in the dismissal, in which case the appeal will be forwarded to the Governors.

In all cases when there is an appeal against a decision to dismiss, the dismissal shall not take effect until the appeal has been determined.

8. At the completion of the appeal, the Governors/Principal will announce their decision, which is final.

Notes on the procedure:

- a. If, after the employee's explanation has been accepted, it is considered that a reasonable amount of time has been allowed for the expected improvements and they have still not been made, the procedure will be re-started.
- b. If at any stage the employee's performance improves to an acceptable level, they should be told of this, preferably in writing, and encouraged to sustain it. Any warnings will be disregarded after the improvement has been sustained for an acceptable length of time, which would not normally be less than 12 months. However, once it is clear that the employee is capable of meeting the standards required, any future performance problems are likely to be dealt with under the disciplinary process.
- c. The Head of Department/Manager will be responsible for keeping detailed notes throughout the process and may request a member of the Human Resources Department to be present at any stage in the procedure.
- d. At any point a Head of Department/Manager may consider it appropriate to offer alternative (not necessarily equivalent) employment to the employee. This should be done, in consultation with the Human Resources Manager, in writing. The letter will explain why the offer is being made and the possible consequences if the employee refuses it and is unable to achieve satisfactory performance in their present job.

Document title	Capability Procedure
Version	<p><i>This procedure is currently under review and will be replaced in due course, for the meantime, please use this version. June 2009</i></p>
Person responsible	
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