

Capability performance policy and procedure for academic support staff

1. Policy

1.1 Many problems can be dealt with as they arise, as part of the normal management process. Where such measures are not effective or appropriate, this capability procedure provides a formal means to enable poor performance issues to be resolved fairly, consistently and in a timely manner.

1.2 Managers have a responsibility to:

- communicate standards of required performance ;
- provide regular feedback on performance;
- address issues of poor performance as soon as they become apparent maintaining confidentiality, dignity and equality of opportunity;
- provide where appropriate guidance and support.

1.3 HR should be consulted before this procedure is invoked.

2. Exclusions

2.1 This procedure does not apply to new employees during their review period of employment with the School, (see Review Periods, Guidance for Managers and Employees).

2.2 This procedure relates to lack of capability and also does not apply to:

- negligence or other forms of misconduct that should be dealt with under the Disciplinary and Dismissals Procedure for Academic Support Staff;
- underperformance due to alcohol or drug dependency, that should be dealt with under the Policy on Alcohol and Drugs Misuse at work;
- underperformance due to a medical condition that should be dealt with under the Incapacity Policy and Procedure for Academic Support Staff or Disability.

3. First Stage

3.1 Where possible, cases of unsatisfactory work performance should be raised as part of the normal management process in order to resolve the problem without recourse to formal action. There is no need to wait until the CDR is issued as part of the annual cycle. Where it is apparent that there are some mitigating health or personal circumstances these should be explored and appropriate support given. In other cases, the employee should be informed of their shortcomings, be given some improvement targets to be met within a reasonable timescale, and informed that failure to achieve the necessary improvement will result in formal action being taken. It should be made clear to the employee that they are at the first stage of this procedure and that they have the right to be represented by a work colleague or trade union representative.

4. Second Stage

4.1 Where no improvement has been demonstrated, the manager should write to the employee giving five working days' notice of the time, date and location of a formal capability hearing, and with full details of the matter to be considered, together with any documentation necessary to prepare his/her response. This should normally comprise the line manager's report and a copy of this procedure. The letter should make it clear that a possible outcome of

the hearing could include a Capability Warning. The line manager's manager will chair the meeting (assuming that the departmental structure can accommodate this, if not a manager from elsewhere in the School will chair the hearing) and will be accompanied by a representative from HR who will take a note of the meeting.

4.2 The employee should be advised of his/her entitlement to be accompanied at the hearing by a work colleague or trade union representative. Capability hearings are internal procedures. Solicitors, family members and all other non-employees will be excluded from capability hearings. Should the chosen companion be unavailable on the given date, the employee should immediately request a postponement by proposing an alternative date and time, which should be within five working days of the given date. Where this is not possible, the employee should choose an alternative person to accompany him/her to the hearing.

4.3 Should the employee wish to be accompanied or call witnesses, it will be his/her responsibility to provide all the appropriate details, including the date, time and location of the hearing, as well as the details and documentation relating to his/her case at least twenty four hours before the hearing.

4.4 The companion will be able to confer with the employee during the hearing and will be allowed to address the hearing in order to put forward and sum up the employee's case, respond on the employee's behalf to any view expressed at the hearing and ask questions for clarification of any witnesses. The companion will not be able to answer questions on the employee's behalf.

4.5 If the reason for the employee or companion being unable to attend the hearing is for reasons that were unforeseeable at the time of arranging the hearing, the employee will be notified of a new date, time and location by the Chair of the hearing. The School reserves the right to hold capability meetings and hearings in absentia.

4.6 The circumstances of any action to be taken against a representative of a recognised trade union will be notified to a full time officer of that union.

4.7 The outcome of the hearing, including all agreed future action, required improvements and timescales should be confirmed in writing, normally within five working days of the hearing. The letter should make it clear that if the required improvements are not achieved/maintained within the specified timescales further formal action may be taken. The employee should be informed of their right of Appeal.

5. Third Stage

5.1 Where there has not been (or it is clear that there will not be) any evidence of improvement, a further hearing should be convened, this time by the manager's manager (assuming that the departmental structure can accommodate this, if not a manager from elsewhere in the School will chair the hearing). The procedure should follow that in stage two except that the line manager will present a report to the Chair. Supporting documentation will be appended to the report. The report will outline the process followed and outcomes of the monitoring process to date, including an assessment of whether the employee can reach the standard(s) required.

5.2 The letter from the Chair convening the hearing should make clear that the possible outcomes of the hearing could include dismissal with notice.

5.3 The outcome of the hearing should be confirmed in writing, normally within five working days of the hearing.

6. Outcomes of capability hearings

6.1 Any or several of the following may be possible outcomes of a Capability Hearing; the list is not necessarily exhaustive.

- No further action, in which case the employee would be formally advised as such.
- A review period during which the employee's performance would be monitored; in this case the length and objectives of the review should be agreed and specified.
- An agreed improvement plan confirming the expected standards of performance, setting defined and measurable performance improvements including the monitoring systems to be used and the date for the next review. It will also include details of any learning opportunities or support to be provided.
- (After Stage 2) a Capability Warning where the employee has been unable to achieve, or to maintain, the required improvements that dismissal under Stage 3 of the procedure will be considered if there is no satisfactory improvement.
- (After Stage 3) termination of employment on the grounds of capability, giving full contractual payment in lieu of notice, where the employee has been unable to achieve, or to maintain the required improvements agreed at the Stage 2 Capability Hearing.

7. Termination payments

7.1 Where an employee's contract of employment is terminated in accordance with this procedure, such termination shall be with immediate effect with full contractual pay in lieu of notice.

8. Appeals and grievances

8.1 Employees are entitled to appeal against any formal action taken under the capability procedure by using the Appeals Procedure for Academic Support staff.

8.2 Where a grievance is raised in connection with the capability procedure it will be considered under the Appeals Procedure for Academic Support Staff.