



STAFF CAPABILITY PROCEDURE

**KICKSTART ACADEMY HAVE FORMALLY
ADOPTED THE TELFORD COLLEGE POLICY**

**Any issues that arise should be discussed with the Director of
Human Resources**

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Capability Procedure

1. Introduction

- 1.1 The Corporation and College management expects employees to work competently and effectively perform the duties outlined in their job description. There is a requirement for the needs of the College's clients to be met and for quality to be maintained.
- 1.2 It is acknowledged that marginal or unsatisfactory performance may result from situations outside of the employee's control and may, when resulting from personal circumstances, be short term.
- 1.3 This procedure is separate from disciplinary action and is intended to assist and encourage all employees to achieve and maintain standards of job performance. The aim is to ensure consistent and fair treatment for all and to assist an employee if they are experiencing difficulties in performing their duties satisfactorily.
- 1.4 Under achievement may arise from a number of factors including
 - a change in performance standards or workloads or a reorganisation or redefinition of role
 - new working methods have not been properly explained and adequate training provided
 - there is an absence of facilities/resources crucial to performance
 - the employee is experiencing inter personal conflict
 - the employee feels a lack of support, leadership or communication
 - the employee is displaying a lack of aptitude, skill or experience
 - the employee some personal/family difficulties or short term health problems
 - poor attendance, related to genuine ill health
- 1.5 Concerns about capability should not be confused with disability. If an employee becomes disabled during the course of their employment every effort will be made to retain them in their original job or to redeploy them to a suitable alternative post, in line with the requirement of the Equality Act 2010. Recourse to the remainder of this procedure should only take place when consideration of all reasonable adjustments has been exhausted.

- 1.6 An employee has the right to be accompanied and represented by a trade union representative or workplace colleague at any stage of the formal procedure.

2. INFORMAL PROCEDURE

- 2.1 It is important to recognise that many issues of capability can be and should be resolved without recourse to the formal procedure below. Most areas for concern can generally be dealt with through informal discussion. This informal stage is an opportunity for open discussion. It is about seeking effective solutions, which may include the involvement of appropriate support services, such as staff development, Occupational Health or counselling. Information on these services is available from Personnel. The informal stage, as the name makes clear, is designed to be informal. However, it is still necessary to ensure that all parties to the informal discussion are clear on what it is about, and what actions need to be taken.
- 2.2 When a line manager identifies apparent under-performance by a member of their staff, they should meet the individual to:
- Outline the aspects of the employee's performance which are deemed unsatisfactory
 - Give the employee the opportunity to ask questions for clarification and discuss any issues raised.
 - Discuss, and as far as possible agree, with the employee a plan of action to deliver the necessary improvements, with timescales - this will be the "review period"
 - Set a date for a meeting to review progress against the action plan.
- 2.3 If the line manager decides that the employee's poor performance may be due to ill health the matter may (with the employee's agreement) be referred to Personnel who will arrange for the employee to be seen by the College's Occupational Health Doctor/Nurse.
- 2.4 Any action plan should be given in writing to the employee and should contain a summary of the improvement(s) required, the target(s) and the timescale(s) over which these are expected.
- 2.5 Continued monitoring and assessment should take place during the review period which should range from **one** to **three** months depending on the requirements to improve performance. During the review period regular meetings should take place between the employee and line manager to ascertain if reasonable progress is being made.
- 2.6 At the end of the review period a meeting should take place to discuss the outcome with a view to securing an improvement to the standards required. The meeting should be informal and constructive to allow the employee an opportunity to express their opinion and for the line manager to determine whether there are any external factors which may be contributing to the poor performance.

- 2.7 It is anticipated that in the vast majority of cases, no further action will be necessary if the employee's performance has improved to a satisfactory level.
- 2.8 If there has been no significant improvement or actions are not being sufficiently moved forward then progression to the formal capability procedure is appropriate.

FORMAL PROCEDURE

3. STAGE 1 - 1st FORMAL INTERVIEW

- 3.1 The formal capability procedure is normally undertaken when the informal approach has not resulted in satisfactory performance. In some situations it may be necessary to go straight to formal stage 1, rather than through the informal stage, but this is only when the capability issue/concern is severe.
- 3.2 The employee's line manager will write to the employee asking him/her to attend a formal meeting. The letter will outline the areas where performance is not satisfactory, give at least 7 days' notice of the meeting, and state the right of the employee to be accompanied by either a trade union representative or a colleague (also employed by the College) of his/her choice.

This meeting constitutes the date of entry into the formal procedure.

- 3.3 If the employee is unable to attend due to sickness the meeting will be adjourned to another day. If the employee will not agree an alternative date, or does not attend a re-arranged date without good reason (such as hospitalisation), the College will of necessity make appropriate decisions in the absence of the employee. An employee who cannot attend the meeting may submit a written statement if they so wish, to be received no later than the day before the date of the (adjourned) meeting, but will be encouraged to attend in person in order to enable fuller discussion to take place.
- 3.4 At this **Stage 1** meeting the employee's line manager will:
 - Review the informal process, and any action plan, which has been carried out to date (if applicable)
 - Outline the aspects of the employee's performance which are (still) deemed unsatisfactory
 - Give the employee the opportunity to ask questions for clarification and respond to any issues raised
 - Discuss, and as far as possible agree, with the employee a plan of action to deliver the necessary improvements, with timescales

- Give the employee a warning that if he/she fails to improve his/her performance to a satisfactory level by the last date set out in the improvement action plan, further and more serious action may need to be taken, with the next level being a potential final warning and the ultimate sanction being potential dismissal
- 3.4 After the formal meeting, a letter should be sent to the employee that makes it clear that the employee's job is at risk if improvement is not achieved. This should be sent to the employee within 5 working days. This letter constitutes a **written warning**. Monitoring and assessment needs to continue for a further period of between **one** and **three** months, depending on the individual situation and in proportion to the level of seriousness of the performance difficulty. Any targets set must be realistic, achievable and timely.
- 3.5 If targets have been met at the end of this period the employee should be informed of this in writing and a copy of the letter placed on their personal file.
- 3.6 If targets have not been met and the employee's performance continues to be unsatisfactory, the case will be moved on to the second stage of the formal capability procedure. The aim at all times is to give the employees support to help them achieve satisfactory performance within a reasonable timescale.

4. STAGE 2 - 2nd FORMAL INTERVIEW

- 4.1 The employee's line manager will write to the employee asking him/her to attend a formal meeting with the line manager and a member of the Senior Management Team (or another manager at a higher level to the line manager). The letter will outline the areas where performance is still not satisfactory, give at least 7 days notice of the meeting, and state the right of the employee to be accompanied by either a trade union representative or a colleague (also employed by the College) of his/her choice.
- 4.2 At the formal **Stage 2** meeting the employee's line manager will:
- Review the formal process and the action plan, which has been carried out to date
 - Outline the aspects of the employee's performance which are still deemed unsatisfactory
 - Give the employee the opportunity to ask questions for clarification and respond to any issues raised
 - Discuss, and as far as possible agree, with the employee a plan of action to deliver the necessary improvements, with timescales. This may be a revision of an earlier action plan, or a new action plan, as appropriate.
 - Give the employee a warning that if he/she fails to improve his/her performance to a satisfactory level by the last date set out in the improvement action plan this may result in his/her employment being terminated or redeployment to another post.

- 4.3 The employee will be made aware of the shortfall in their performance and be set clear targets to achieve within a timescale which should be a minimum of **1 month** but no longer than **3 months**. Any targets set must be realistic, achievable and timely.
- 4.4 After the formal meeting, a letter should be sent to the employee that makes it clear that the employee's job is at risk if improvement is not achieved. This should be sent to the employee within 5 working days. This letter constitutes a **final written warning**. Monitoring and assessment needs to continue during the review period.
- 4.5 If at the end of this final review period targets have been met and a satisfactory standard attained the line manager should write to the employee and inform them of such with a copy of the letter being placed on the employee's personal file.
- 4.6 If at the end of this final review period the employee's performance continues to be unsatisfactory in the opinion of the line manager then the line manager should review the facts with the member of the Senior Management Team who attended the Stage 2 meeting and the Director of Personnel (or representative). The purpose of this review is to ensure that all reasonable steps have been undertaken to provide the employee with opportunities to improve their performance and to agree that progression to the final stage is appropriate
- 4.7 Following this review the employee will be written to by the line manager and informed that standards have not been met and invited to a third and final meeting.

5. STAGE 3 - FINAL INTERVIEW

- 5.1 The employee's line manager will write to the employee asking him/her to attend a formal meeting with the line manager and a member of the Executive Management Team. The letter will outline the areas where performance is still not satisfactory, give at least 7 days notice of the meeting, and state the right of the employee to be accompanied by either a trade union representative or a colleague (also employed by the College) of his/her choice.
- 5.2 At the meeting the member of the EMT
- Review the history of the case, including: the steps that have been taken to support the employee to achieve the required level of performance; improvement actions agreed; and progress (or otherwise) against these
 - Outline the aspects of the employee's performance which are still deemed not to be satisfactory
 - Give the employee the opportunity to ask questions for clarification, respond to any issues raised, and give his/her explanation for any improvement actions not taken/completed
 - Inform the employee that dismissal is to be considered

- 5.3 After the formal Stage 3 meeting a decision will be taken by the member of the EMT to:
- In an exceptional circumstance allow further time for improvement (in which case a revised and final improvement action plan will need to be drawn up). The employee will be informed that if standards are not met at the end of this period they will be dismissed.
 - dismiss the employee
- 5.4 If the employee is to be dismissed under the terms of this capability procedure they will be advised in writing of
- The reason for the dismissal
 - The date of termination
 - The right of appeal
- 5.5 Where the decision is one of dismissal and where there is a suitable vacancy the employee may be offered redeployment. The College will be mindful of its need for the post, the budgetary implications, or any potential retraining costs. The College is not obliged to offer an employee a redeployed post.
- The employee will be informed that the post may be on a lower salary scale, may not be within the same area of work, why the offer is being made and the consequences of refusing it. The employee will be given time to consider the offer and advised to discuss it with their representative. The new post will have a probationary period.
- 5.6 If an employee does not accept the offer of redeployment then the process set out in 5.4 will be applied.

6. APPEAL PROCESS

- 6.1 If notice of dismissal is issued then the employee will have the right of appeal to the Principal.
- 6.2 An employee who wishes to appeal against a disciplinary decision must do so within 7 days of the date of the decision. To do so, the employee should write to the Principal's PA, stating the grounds for appeal.
- 6.3 An appeal meeting will be held as soon as reasonably practicable after the notice to appeal has been received. The employee will be given at least five days notice of the meeting date to allow him or her to prepare for the meeting.

- 6.4 At the appeal meeting, the employee will be given the opportunity to state his or her case and has the right to be accompanied by a representative of a trade union or work place colleague
- 6.5 If the chosen companion of the employee is unavailable on the date of the initial meeting, the employee may delay the date of that meeting once by up to ten working days to enable the chosen companion to attend. The location and timing of any alternative meeting should be convenient to both the employer and the employee, but should not unduly delay the process.
- 9.6 The appeal decision will be notified to the employee in writing without unreasonable delay following the appeal meeting.
- 9.7 The appeal decision is final.