

Capability procedure – school support staff Procedure for dealing with poor performance

Rev: January 2019



1. Introduction

- 1.1 The aim of this Procedure is to provide a clear and equitable process for dealing with poor performance and lack of competence by supporting employees to improve and sustain performance to a satisfactory standard wherever possible, and to take appropriate action where this is not possible.
- 1.2 It is the managers responsibility to ensure that staff are aware of the standards of performance required and the proper use of performance management should ensure that problems are detected at an early stage and support offered where necessary. Managers are responsible for ensuring that their employees have adequate training, guidance and instruction. This includes undertaking regular performance appraisal or supervisory meetings.
- 1.3 The standards set under Performance Management should be reasonable and achievable. Regular meetings with employees will minimise the risk of poor performance, as will the proper use of the recruitment process to ensure that only those able to carry out the duties for which they are employed are successful.
- 1.4 Where an employee is, or becomes, disabled then consideration must be given to reasonable adjustments which might be necessary to help them perform their duties. The Authority's Guidelines on Reasonable Adjustments should be consulted and advice sought from Equalities Advisors and Personnel in such cases.
- 1.5 Where performance management has failed to resolve problems of poor performance and competence, the formal process outlined below should be followed. Managers should discuss the matter with their HR representatives before commencing this process and may wish to consider taking advice from an Equalities Officer or Training Officer as appropriate. This procedure should be given to the employee prior to the first formal meeting and they should be told in writing, ten days before, the date, time and reason for the meeting. Evidence, including notes of all discussions to date, should be collated by the manager for use at the formal meetings and given to the employee in advance. All formal meetings should be recorded in writing and a copy given to the employee.
- 1.6 The employee can be represented by a trade union representative or work colleague at any of the formal meetings within this process.
- 1.7 There may be reasons for an employee's performance falling below the required standard, including changes in the job, manager, team members, the tools or technology to do the job, personal circumstances, health, or disability. Alternatively the employees' performance may indicate a wilful lack of effort, or misconduct.



Where the job or tools required have changed, the employee has the right to expect to be retrained to carry out their duties effectively. Poor health and disability will often require advice from Employee Healthcare and counselling can be provided to an employee through Care First for many situations where employees' personal circumstances have changed. In the case of wilful neglect of duty or failure to carry out reasonable instructions, the Authority's disciplinary procedures should be considered. At any time, the manager may choose to pursue the matter under a more appropriate procedure, however if this is the case the manager must confirm that it is appropriate with personnel and give the employee reasons for doing so.

2. Stage One – Capability meeting

- 2.1 The manager will write to the employee giving at least ten days' notice of the meeting and outlining the areas of concern.

- 2.2 The key areas of the meeting will be to:
 - Identify the problem
 - Listen to the employees response
 - Identify difficulties
 - Identify the support required
 - Identify and (where possible) agree targets
 - Complete the pro forma

- 2.2.1 **Identify the problem:** In the meeting the manager should make known the performance expectations and concerns.

- 2.2.2 **Listen to the employee's response:** The manager should listen sympathetically whilst giving the employee a full opportunity to explain.

- 2.2.3 **Identify difficulties:** The discussion should identify any difficulties in achieving the required performance levels and should explore all the options available.

- 2.2.4 **Identify the support required:** The training, support or other resources required by the individuals should be identified.

- 2.2.5 **Identify and (where possible) agree targets:** Realistic and achievable targets should be set by the manager and where possible be agreed with the employee



- 2.2.6 **Complete the pro forma:** A record of this meeting should be kept by completing the pro-forma attached at the end of this policy. This will be used as a record of the meetings throughout the process.
- 2.3 A date will be set, typically 6 - 8 weeks ahead for a review meeting. Whilst every attempt should be made to explore positive means of improving performance, the employee must be informed of the possible consequences of failing to reach these standards.
- 2.4 The decision of the meeting should be confirmed in writing to the employee, setting out the targets and standards to be met, the date of the review meeting and explaining that where these standards are not met it may result in further action being taken under this procedure. During the review period, the manager will be expected to meet with the employee on a regular basis to assess progress and the support required.

3. Stage Two – Review meeting

- 3.1 Whilst the date for this review meeting will have been set at the time of the original capability meeting, the manager should confirm, at least five days before this meeting, the date, time and reason for the meeting. The summary of meetings and events in the support programme should be sent with the notification of the meeting. The Review Meeting will be between the manager and the individual concerned and, where there has been no significant improvement, in the presence of and chaired by a senior manager. It should cover all the issues and concerns discussed at the Stage One Competency Meeting and any new issues that may have arisen since. Consideration should be given to how successful the support programme has been during this period. Where performance has improved to a successful level, then no formal action is necessary, subject to there being no subsequent under-performance in the next 12 months. Written confirmation should be sent to the employee recognising their efforts and explaining that the improvements need to be maintained.
- 3.2 If there is a subsequent transgression, and it is clear that the employee is capable of working at the required level, consideration should be given to invoking the disciplinary procedure.
- 3.3 If there is no improvements the Chair will issue a Stage Two Warning that failure to meet the standards required in the future, may jeopardise the employee's employment with the Authority. This letter should explain the rights of Appeal. Targets and standards expected will be set and the support and monitoring will be explained and date for the Stage Three Hearing meeting, typically 6 - 8 weeks ahead, will also be set. In exceptional circumstances, where an improvement has taken place, but this is less than satisfactory, an additional period of support and monitoring could be offered



culminating in a second Stage Two Review.

4. Stage Three – Capability hearing

- 4.1 This formal hearing will mirror the procedure as laid down for disciplinary hearings. It will be chaired by a manager with authority to dismiss. The letter instructing the employee to attend the hearing, will explain that the purpose of the hearing is to consider the employees' competency to carry out the job for which they are employed and may result in their dismissal. The hearing will consider the full case history and support programme offered. The employee's shortfall in relation to the required standards should be identified and an assessment made of the likelihood of their achieving the standard in the future.
- 4.2 The decision of the hearing may include
 - 4.2.1 Acceptance that significant improvements had been made and agreed continued monitoring to ensure this is maintained.
 - 4.2.2 To repeat the monitoring and review and to report to a second Stage Three Hearing in 6 - 8 weeks, with a further warning stating that failure to meet the standards required in the future, will lead to their dismissal.
 - 4.2.3 To dismiss the employee with notice.
- 4.3 As an alternative to dismissal, the Chair may choose, subject to availability, to offer a post at a lower level that is within the individual's skills and capabilities. If the employee accepts this offer, then the pay terms and conditions that apply to this post will be applied and there will be no rights of appeal against this decision.

5. Appeals

- 5.1 Appeals against decisions of the Stage Three Capability Hearing will be heard by an Appeals Panel.

6. Continuity of Process

- 6.1 If, within 12 months, there is a deterioration in the employees performance; a review meeting will be held to identify the reasons for this and, if appropriate, at what stage to reinstate the process.

