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Human Resources

Capability Guidance

1. Contents

2. Status

This guidance supports staff and institutions in implementing the Capability Policy and provides information on good practice. It is not University policy and does not form part of employees' terms and conditions of employment.

3. Defining Capability

Capability refers to an employee's ability to perform the work expected of them to the required standards. This may be assessed by reference to an employee's skill, aptitude, health or any other physical or mental quality in relation to the job that they are employed to do.

A lack of capability (also defined in this guidance as underperformance) exists where an employee is not performing the job to the standard required. The Capability Policy provides a framework to address underperformance where this appears to be due to an employee's capability to do their job rather than conduct or behaviour i.e. in broad terms the employee 'can't' rather than 'won't' do something (see section 5.0).

It should be recognised that capability problems may be outside the employee's direct control and may be symptomatic of underlying work problems or other personal issues. Very few employees choose to perform their work badly, make mistakes or fail to complete tasks. Consequently in the event that an employee is underperforming, a manager should examine the circumstances to identify underlying causes and give support to the employee to help them to improve to the required standard of performance. Particular care should be taken when disability or health issues are involved and advice should be sought from the Occupational Health Service and HR Division as appropriate.

Appropriate action should be taken promptly as soon as it is noticed that an employee is not performing certain aspects of their job satisfactorily. Delaying or doing nothing may cause the performance problem to escalate and cause delay in providing the necessary support to the individual. Further guidance on timescales is provided under section 9.9.

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4. Other University Procedures to Support Performance

Managing performance effectively is not just about having the appropriate procedures in place to deal with underperformance. It is also about ensuring that employees receive the support, recognition, training and development they require to build and maintain their capability to perform successfully in their roles.

4.1 Recruitment
An effective recruitment and selection process is fundamental to performance management. Appointing those candidates most capable of performing the tasks and responsibilities of the role will reduce the chances of performance problems arising later. Further information on carrying out an effective recruitment process can be found on the Recruitment Guidance website.

Recruitment Guidance

4.2 Induction
It is important that the foundations for good working practices are established at the outset of the individual's time in their new role. All new employees should have their job explained to them carefully on arrival, be given a copy of their job description (PD33), be referred to any written guidance that exists in relation to their area of work, and be given appropriate training and support. In the first few months it is also important to monitor performance more frequently, to identify and discuss areas where improvement may be needed and to facilitate learning and improvement. See section 4.3 on Probation.

Induction checklist

4.3 Probation
There are responsibilities for both the employee and the manager during the probationary period. New employees need to demonstrate that they have the capability to undertake the duties of the role. Institutions in turn, need to be proactive in setting out the requirements of the job, monitoring progress, identifying areas where further training and development is needed, and ensuring its provision within an appropriate timescale. The HR Division provides written guidance on the framework for conducting regular reviews during the probationary period. The Capability Policy will not be invoked during any probationary period.

Probation

4.4 On-going employment
It is not enough to simply make new employees aware of expected standards of performance at the start of their new role. Performance should be reviewed regularly so that the employee knows if they are performing their job to an acceptable standard and if this is not the case they should be given the opportunity to improve and reach the standard required. Where expectations change and evolve over time, managers have a responsibility to inform staff of these changes.

The University has in place a range of good practice initiatives for supporting staff performance during employment, including a Staff Review and Development Scheme and associated training, career pathways and University steering groups on stress, wellbeing and sickness absence.

5. Selecting the appropriate procedure

5.1 Identifying underperformance
It is important to identify the correct procedure for managing performance issues as early as possible so that appropriate support can be offered to the employee.

Whether performance concerns should be managed under the disciplinary or capability procedure will depend on the nature of the performance issues. This can normally be determined by holding an initial discussion with the employee and gathering further information. Generally a manager will know whether an individual simply does not have the skill, knowledge or ability to carry out their role and therefore needs assistance, training or support to improve, as opposed to where an individual is perfectly capable of doing their job (i.e. they know how to do their job and have the skills to carry it out) but they deliberately do something wrong or are careless or idle.

Advice should be sought from the HR Division if managers are unsure which procedure is appropriate or believe they may need to follow a different procedure. If, in the course of investigating an employee's underperformance it becomes clear that it would be more appropriate to continue under a different procedure, this should be discussed with the employee and confirmed in writing.

5.2 Disciplinary
In deciding whether the Capability or the relevant Disciplinary Policy will apply, it is important to recognise the difference between:
- a deliberate failure on the part of the employee to perform to the standards of which they are capable (e.g. carelessness, negligence or lack of effort which is under the employee's control), in which case the relevant Disciplinary procedure will be appropriate; and
- a case of incapability, where an employee is lacking in knowledge, skill or ability, which is outside of the employee's direct control, and so is unable to carry out their duties to the standard required, in which case the Capability Policy will apply to support and improve performance.

5.3 Ill health
In deciding whether the Capability or the Sickness Absence Policy will apply, consideration should be given to how the ill health is affecting the employee's ability to carry out their job to the required standard. If the issue is primarily that the individual has unacceptable levels of absence from work, then the Sickness Absence Policy will apply. If the individual is largely attending work but their performance of their work is affected due to ill health, the Capability Policy will apply. For advice and guidance on managing cases related to ill health, please contact the relevant HR School team and the Occupational Health Service.

5.4 Disability – Consideration must be given to whether underperformance may be caused or exacerbated by a disability under the Equality Act. Disability is defined under the Act as a physical or mental impairment that has a 'substantial' and 'long-term' negative effect on an individual's ability to do normal daily activities. Where this is the case, care should be taken to avoid discrimination arising from the disability. In practice, this means that any action taken in response to the particular performance concerns will need to be proportionate and appropriate in relation to the performance objectives set. Consideration must also be given to whether there are reasonable adjustments which could be made to the employee's working arrangements, including changing duties or providing additional training, as well as making adjustments to the application of the Capability Policy itself where appropriate. Details of further information are provided below:
- Equality and Diversity

- [HR School Team](#)
- The University's [Disability and Employment Policy](#)

6. Roles and responsibilities

- **The Manager** will normally be the employee's line manager or a more senior manager and is responsible for ensuring that the employee is informed of standards of performance required. The manager should address underperformance issues when they become known and seek to resolve these at the earliest opportunity. The manager will collate the necessary information and may consult with HR to establish the nature and extent of the underperformance concerns. The manager will lead and direct informal and formal stage one and two capability meetings, and will work with the employee to develop a performance improvement plan, explain the standards set and support the employee in achieving them. The manager will review the evidence gathered to assess if further action is required and what this should be in accordance with the policy.

- **The Head of Institution (or nominated deputy)** will lead and direct formal stage three capability meetings.

- **The Employee** has a duty to perform their duties to an acceptable standard and to seek to improve where their performance falls below the standards required, including meeting the standards required under any performance improvement plan that is set. The employee will answer concerns raised under the Capability procedure. They will be provided with the opportunity to bring forward information and share their views at any meetings or appeal.

- **The Human Resources Representative** will provide advice and guidance on the application of the Capability Policy and procedure. They will support the manager in the process of making an informed, fair and reasonable decision. They will ask questions at meetings and challenge evidence as required.

- **The Trade Union Representative** or **work colleague** may support and advise the employee, and may ask questions or make representations on behalf of the employee. They may not answer questions on behalf of the employee.

- **If Witnesses** are called they may be asked to:
  - Provide a written statement in their own words of what they personally witnessed or had involvement with.
  - Attend a meeting and answer questions.
  - Describe any particular incidents that are relevant to the performance issue raised.
  - Specify any other persons who may have witnessed the particular incidents raised.

  Witnesses must treat as confidential any information communicated to them in connection with a matter which is subject to a capability procedure.

- **A Note Taker** will take notes at the meeting(s). These will be notes of key points and will not be a verbatim record. The notes will be provided to both parties who will have the opportunity to submit their comments. Where possible the note taker will be someone who is not involved in the case but will usually be from the HR Division. Meetings cannot be recorded by either side and recordings will not be admissible as evidence even where they exist.

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7. Support for staff and managers

7.1 Support for staff
Consideration should be given to the wide range of support available to assist employees in improving and enhancing their performance. This may be in house or provided by external providers. Examples include training, mentoring, coaching, work-shadowing, re-training, job rotation and secondment. Consideration should also be given to advice and guidance that can be offered by managers and peers, including reading lists and professional sources of information and advice.

- **Training**
  Training can be delivered in a number of ways, it can be offered on a one to one basis or delivered in a group setting and it can take place at the place of work or away from it. Facilities should be provided where possible for employees to undertake training, such as access to a computer and a quiet room to undertake training.

  o **On-the-job training**
    On-the-job training typically involves learning through observing and/or being assisted by a colleague with more experience of performing a task. It should be planned, structured and a defined period of time allocated to it with an emphasis on learning rather than work output. It is usually delivered on a one to one basis at the learner's place of work.

    On-the-job training is useful as it is immediately relevant to basic job needs and can be delivered by the manager or a peer. When delivering on-the-job training it is important to ensure that trainees are able to practice what they have learned immediately so that they remember what they have been taught, that instructions are paced to avoid information overload and that positive feedback is given for encouragement.

  o **Off-the-job training**
    - o [Personal and Professional Development (PPD)](#) provide a centrally organised programme of staff development courses and activities.
    - o [University Computing Service (UCS)](#) provides a wide range of training courses for all staff.
    - o [University Language Centre](#) offers staff language-learning and teaching services for work-related language learning needs.

  o **Re-training**
    Employees may wish to consider re-training opportunities, particularly where this would assist them in meeting the requirements of a new position or a potential redeployment opportunity. Consideration may be given to reasonable requests for re-training, taking into account the benefits to the employee and University and considering the length and cost of the training. Advice can be sought from PPD, the Careers Service or the HR Division.

- **Coaching and Mentoring**
  Coaching and mentoring are development techniques based on the use of one-to-one discussions to enhance an individual's skills, knowledge, competencies or work performance, often for the current job, but also to support career transitions.

o **Coaching**
Coaching is a teaching or training process in which an individual receives support while learning to achieve a specific professional goal. It is designed to help facilitate professional and personal development to the point of individual growth and improved performance.

Coaching focuses on improving performance at work and on developing specific skills and achieving goals, although it may also have an impact on an individual's personal attributes (such as social interaction or confidence). Coaching can be undertaken by a trained manager, colleague, external coach or more senior member of staff; the process typically lasts for a relatively short period.

The following are some general principles of coaching at work:

- o It focuses on improving performance and developing an individual's skills.
- o Personal issues may be discussed but the emphasis is on performance at work.
- o Coaching activities have both organisational and individual goals.
- o It provides people with feedback on both their strengths and their weaknesses.
- o It is a skilled activity, which should be delivered by people who are trained to do so. However, this can be managers and others trained in basic coaching skills.
- o It is normally a non-directive form of development.

o **Mentoring**
Mentoring is typically a professional relationship in which an experienced person (the mentor) assists another (the mentee) in developing specific skills and knowledge that will enhance the mentee's professional and personal growth. The mentor is often a more senior employee from a different part of the organisation to the mentee. Mentoring relationships tend to be longer term than coaching arrangements and are most effective when there is a learning opportunity for both parties.

A mentor can be someone outside the normal working hierarchy, usually more senior, and chosen because of their breadth and depth of experience, network of contacts, and the support and guidance they can offer for career development. More recently peer mentoring is becoming more widely used; this involves colleagues on a similar level providing mutual support and guidance to each other to assist with personal growth and development.

- **Job rotation, secondment and shadowing**
Secondment is the temporary loan of an employee to another department or role (or, sometimes, to an external organisation). The learning associated with the experience of secondment is recognised as being valuable for both employee development and organisational development. Job rotation and shadowing are similarly useful forms of development, particularly in supporting employees in developing the skills and competencies required for moves to new or higher-level roles. Further information and advice can be sought from the HR Schools teams or PPD.

- **Self-assessment and reflection**
  By asking themselves a series of open questions, an individual can discover their own strengths, mistakes, learning needs and successes. This kind of analysis and self-reflection can assist individuals in reviewing and improving their own performance without the need for management intervention. Examples of the types of questions that individuals may wish to ask themselves, to prompt learning, are listed in the toolkit. Advice on receiving and using feedback effectively is also provided in the toolkit.

- **University support services**
  There are also a range of support services for employees including the Occupational Health Service, Counselling Service, Dignity at Work and Mediation Service.

7.2 Advice for managers supporting staff

A number of supporting documents are available in the toolkit section to assist managers (and staff), including:

Section A: Managing capability

1) Template Performance Improvement Plan
2) Self-review of performance and development
3) Key principles for capability meetings
4) Giving feedback
5) Receiving feedback
6) Handling challenging conversations including stages of a meeting
7) Dealing with emotions

Section B: Further relevant information

8) Management styles
9) Learning styles and development activities
10) Setting performance standards
11) Setting objectives

8. Informal resolution

Performance problems are most effectively managed as early as possible. In most cases informal discussions between the manager and the employee will resolve the issues. A summary of the informal procedure is provided in the policy flowchart.

Whilst employees only have the right to be accompanied at formal capability meetings by a trade union representative or work colleague, by agreement with all parties, the request to be accompanied may be extended to the informal stage where this is deemed to be in the interests of an early resolution and where there are particular circumstances where an employee needs additional support. In such cases an independent note taker may also be present.

During an informal discussion the employee should be advised of any performance issues. Feedback should be constructive with the emphasis being placed on finding ways to improve and sustain improvement. The employee should be made aware of;

- The standards required.
- How their performance will be reviewed.
- Over what period their performance will be reviewed.
- The Capability Policy and associated guidance.

Consideration should be given to reasons behind issues, sources of support and other options under section 7.0. The employee should also be given the opportunity to provide feedback and to respond.

If a review period is set, regular review discussions should be held with the employee. A Performance Improvement Plan should be used to record any actions decided and taken and progress during the review period. At the end of the review period, the employee's progress will be reviewed to assess whether or not any further action or support is required. If the employee's performance has not improved to an acceptable standard, consideration will be given to a more formal approach under the Capability Policy (see section 9.0 below).

9. Formal resolution

If informal action has not succeeded in addressing and resolving the underperformance or if the problem is more serious and a more structured, formal approach is needed, consideration will be given to whether there are grounds for undertaking formal action under the Capability Policy (see section 5.1.6 of the Capability Policy and flowcharts). The assessment required will depend on the circumstances but may involve:

- reviewing the employee's personnel file,
- gathering relevant documents,
- monitoring the employee's work,
- interviewing the employee and/or other individuals confidentially regarding the employee's work, as appropriate.

Where there are grounds for undertaking formal action, a staged approach will be adopted as detailed in the Capability Policy. The Capability Policy will seek to establish:
- the performance gap
- the causes
- the impact the poor performance is having
- the actions to be taken
- who has responsibility for the actions
- the performance standards that are required
- the support to be given to the employee
- a timetable to review the agreed objectives

The focus of the formal procedure will be to give an employee support to help them to achieve the expected performance standards.

Where a review period is set, regular review meetings should be held with the employee. A Performance Improvement Plan should be used to record action taken and progress during the review period. At the end of the review period, the employee's progress will be reviewed to assess if any further action and /or support is required. If the employee's performance has not improved to an acceptable standard, consideration will be given to the next stage of the formal Capability procedure.

At any stage of the formal procedure a manager may consider a range of other options including:
- reverting to an informal approach
- taking action under an alternative University procedure
- providing appropriate training or development opportunities
- extending a review period
- by agreement investigating the possibility of alternative available roles (see section 9.6 below)

This list is not exhaustive.

9.1 Right to be accompanied and attendance

All employees have the right to be accompanied at formal capability meetings by a trade union representative or work colleague.

Employees are responsible for co-operating with their manager in improving their performance and attending capability meetings. Where the employee is unable to attend a capability meeting on the date scheduled they should inform their manager at the earliest opportunity. In the first instance the meeting will usually be rearranged for an alternative time. Where an employee fails to attend a rearranged meeting without good cause, a decision may be made to go ahead with the meeting in the employee's absence, and a decision will be reached based on the evidence available. The employee will be informed where this is the case.

If an employee's companion or trade union representative cannot attend on a proposed date, the employee can suggest another date so long as it is reasonable and is not more than five working days after the date originally proposed. Whilst every effort will be made to find a time that is suitable for all parties, if the companion is not available at the rearranged time the University can insist that the employee choose a different companion, or attend the meeting unaccompanied.

Where an employee is unable to attend a capability meeting due to ill health, consideration will be given to making reasonable adjustments, such as holding the meeting at a different location or allowing the employee to make written representations.

9.2 Witnesses

The employee and the presenting manager may call witnesses under the formal stages of the Capability procedure. In accordance with the ACAS Code an employee should be given a reasonable opportunity to ask questions, present evidence and call relevant witnesses. They should also be given an opportunity to raise points about any information provided by witnesses. The employee is also responsible for making arrangements for their witnesses to attend. They must provide the names of any witnesses they wish to call to the manager conducting the meeting at least three working days prior to the meeting, with a written explanation of the relevance of the witness evidence where requested. Employees will be allowed appropriate time off where they are asked to attend a capability meeting as a witness.

9.3 Authority to act

Meetings under stages one and two of the formal procedure are conducted by the employee's manager or a more senior manager, as appropriate. Meetings under stage three of the formal procedure are conducted by the Head of Institution or nominated deputy. The Head of Institution may select a nominee to act on their behalf. The nominee will be agreed in conjunction with HR and will be a senior colleague.

There may be exceptional circumstances where it would not be appropriate for the Head of Institution to act in a case e.g. the Head of Institution is required to act as a witness or is compromised in some substantial way. In such circumstances the case will be referred to the Director of HR who may refer the case to an alternative Head of Institution or senior Officer of the University.

9.4 Formal meetings

9.4.1 Formal meeting stages one and two

At the meeting the manager (who will be accompanied by a member of the HR team) will outline the performance issues that have led to the meeting and will review the

circumstances of the case and the actions taken to date. The employee will be given the opportunity to state their case and raise any factors they wish to have considered. The manager should identify if there are measures, such as additional training or supervision, which may help improve performance and where appropriate, discuss targets for improvement and a timescale of review. Please see the Capability Policy for further information on stages one and two.

If as a result of the meeting and the evidence presented, the employee's performance is considered to be satisfactory and no further action is required, this will be confirmed to the employee in writing within five working days.

If as a result of the meeting and the evidence presented, the employee's performance is considered to be unsatisfactory the manager will write to the employee issuing an Improvement Notice. The Improvement Notice will state the improvement in performance required, targets for improvement, the timescale for improvement, any support to be provided and the consequence of not meeting the performance targets within the review period. It will also set out the employee's right of appeal.

Please see section 9.4.2 below for further guidance on conducting formal meetings and section 6.2 of the Capability Toolkit.

9.4.2 Formal meeting stage three
If the employee's performance does not improve as specified in the Improvement Notice issued under the formal stage one or formal stage two meeting above, or where serious performance issues arise (as stated under section 5.1.8 of the policy), the employee shall be invited to a formal stage three meeting.

The meeting will be conducted by the Head of Institution or nominated deputy who will be accompanied by a member of the HR Division.

a) Preparation
The employee will be notified in writing and will be given at least five working days notice of the meeting.

The invite letter will:

* Explain the purpose of the meeting.
* Provide details of the underperformance concerns and the reasons for those concerns
* Explain that one possible consequence of the meeting may be the termination of employment.
* Specify the manager/head of institution who will conduct the meeting and identify others any others who will be attending.
* Invite the employee to make any written submissions to that person and/or bring forward witnesses.
* Advise the employee of their right to be accompanied.

Where there is additional information to provide to the employee this should be sent with the letter and may include:

* A summary of relevant information gathered as part of any review/assessment.
* A copy of relevant documents which will be used at the capability meeting.

- A copy of relevant witness statements (except where a witness' identity is to be kept confidential, in which case the employee will be given as much information as possible whilst maintaining confidentiality.)

Prior to a formal capability meeting the employee must inform the manager conducting the meeting of:
- the names of any nominated witnesses they wish to call,
- written submissions they wish to have considered,
- documentary evidence they intend to rely on at the meeting and
- an explanation of the relevance of both their own and any witness evidence.

The employee should provide this information as soon as reasonably practicable and at least three days before the formal meeting.

b) Introductions
At the start of the meeting the person conducting the meeting will introduce those present and explain the purpose of the meeting and the process that will be undertaken, encouraging those present to speak openly. If a witness is called by either the manager or the employee, they will be invited to attend at an appropriate time.

c) Presentation of the case
The presenting manager (normally the manager who has dealt with the case up to this point) will present the details of the underperformance and any steps taken to address these. If appropriate they may present the findings of any investigation, may call witnesses, and question them and the employee in relation to the alleged underperformance. The presenting manager should:
- set out the required standards which it is considered the employee may have failed to meet,
- state clearly the areas of concern
- outline the case by going through the evidence that has been gathered
- set out any steps which have already been taken to address performance shortfalls,
- call witnesses if appropriate
- answer questions that relate to the case

d) The employee's response
The employee or their representative (in accordance with section 6.0 above) should:
- state their case and respond to any performance issues raised,
- ask questions and present any evidence in support of their case,
- respond to any information given by a witness,
- call witnesses if appropriate.

e) Consideration by the manager conducting the meeting
The Head of Institution or nominated deputy conducting and hearing the case should:
1. go through any relevant evidence gathered including, where relevant, the findings of any investigation/review, and the questioning of any witnesses or parties in relation to the alleged performance issues.
2. use questions to clarify the issues and to check that what has been said is understood.
3. encourage the employee to speak freely to establish all the facts
4. establish if there is any explanation for the alleged performance shortfalls
5. if dismissal is a possibility, establish whether there is any likelihood of a significant improvement being made within a reasonable time and whether there is any practical alternative to dismissal, such as redeployment

6. summarise the main points of the discussion after questioning is completed
7. ensure all evidence and points for all parties have been put forward, including if there are any special circumstances to be taken into account,
8. ask the employee if they have anything further to say or to be taken into account

The person conducting the meeting will be able to question all those involved. They will consider all representations before deciding if the concerns are well founded and if so what outcome, including and up to dismissal is appropriate.

f) Adjournment

If new facts have emerged or there is any dispute over facts that haven't been properly investigated, it may be necessary to adjourn the meeting in order to investigate them and reconvene the meeting at a later date. Any new evidence should be shared with both parties prior to reconvening the meeting. Requests for an adjournment by either side should be made to the manager leading the meeting.

g) Meeting Outcome

The employee will be informed of the decision in writing within five working days of the meeting.

If as a result of the meeting and the evidence presented, the employee's performance is considered to be satisfactory and no further action is required, this will be confirmed to the employee in writing.

If as a result of the meeting and the evidence presented, the employee's performance is considered to be unsatisfactory, further appropriate action will be considered, as detailed in the procedure. Further advice should be sought from the HR Division particularly if dismissal on grounds of incapability is under consideration.

The correspondence shall also notify the employee of their right to appeal against any sanction. In the event that the decision is taken to dismiss the employee, the correspondence will include the reasons for dismissal and the date that their employment will terminate, together with details of any notice arrangements and right of appeal. Dismissal will always be a last resort after consideration of all other options, see Section 9.0 and 9.7.

This guidance should be read in conjunction with the Capability Policy. Please contact the HR Division if there are any further queries.

9.5 Improvement Notices

If as a result of a formal stage one or two meeting the employee's performance is found to be unsatisfactory the manager will write to the employee, issuing an Improvement Notice. The Improvement Notice will state the improvement in performance required, targets for improvement, the timescale for improvement ("the review period"), any support to be provided and the consequence of not meeting the performance targets within the review period. It will also set out the employee's right of appeal.

The manager may develop a Performance Improvement Plan, with input from the employee, to help the employee to attain the required level of performance. A template is provided in the toolkit section.

The manager will monitor the employee's performance during the review period and will hold regular review meetings. A Performance Improvement Plan should be used to record action taken and progress during the review period. On completion of the review period the manager will write to the employee to inform them of the outcome.

An Improvement Notice will remain active for a specified period. This will usually be six months for a First or Final Improvement Notice and one year for a Final Improvement Notice, after which time it will remain on file for reference purposes but will be disregarded when making a decision on future capability proceedings.

9.6 Other options to consider under the capability procedure

Redeployment
Where underperformance continues despite support and assistance, alternative employment may be considered. However, an employee cannot be redeployed to another role without their express agreement and cannot be forced to move. Redeployment would have to be a decision agreed between employer and employee. Employees who wish to be considered for redeployment will be offered advice and assistance in preparing job applications, updating CVs, writing cover letters and interview preparation over a reasonable period of time. If the employee has moved from another position in the University, consideration may be given to transferring the employee back to their old position if appropriate, subject to agreement with all parties and the position remaining vacant.

Redeployment guidance and process.

Guidance for searching for jobs, updating a CV and interview techniques.

9.8 Suspension

If the underperformance or capability issue is considered sufficiently serious, suspension may be considered. Suspension is not a penalty and should be considered a neutral act which does not imply wrongdoing on the part of the employee and is therefore on full pay. It will be unusual for suspension to be appropriate in managing capability concerns, except where these may amount to serious incapability or gross negligence. Suspension may for example be considered if a case involves a serious neglect of duty, to provide an opportunity to fully investigate, where there are concerns the employee may interfere with the investigation/review, or if the employee is considered to be a risk to themselves or others. Any decision to suspend will be taken by the Head of Institution in consultation with the relevant HR Business Manager and confirmed in writing within five working days. The letter will provide details of the circumstances of the suspension. A manager will be appointed to keep in contact with the employee during the period of suspension and to regularly review the arrangements and reasons for continued suspension. The employee will be offered sources of support and advice.

9.9 Timescales

Timescales at all stages of the formal and informal Capability Procedure should be appropriate and reasonable.

Informal - Once an underperformance issue is identified, it should be addressed at the earliest opportunity, ideally within a few days.

When setting timescales for performance improvement and review, agreement should be sought at the outset with the employee that the timescales set are reasonable. Timescales for improvement will vary depending upon the nature of the role and the issues involved. When setting review timescales, the following factors should be taken into consideration:

- The nature of the work and the underperformance
- How often the task or type of work under review arises eg if it involves examination administration this may not reoccur for another academic term or year
- Ensuring reasonable time for the individual to undertake training, absorb, practice and apply it
- Urgency of the task or area of work under review
- Consequences of further underperformance
- In all circumstances the period of time to improve must be reasonable

Formal - The formal stages of the Capability procedure specify the following timeframes:
- The employee should receive at least five working days written notice of a formal capability meeting, allowing the employee reasonable time to prepare for the meeting.
- At least three working days prior to a formal capability meeting the employee must inform the manager conducting the meeting of the names of any nominated witnesses they wish to call, any written submissions they wish to have considered, any documentary evidence they intend to rely on at the meeting and, if requested, an explanation of the relevance of both their own and any witness evidence. If the employee is concerned about meeting this timescale they should discuss this with their HR School team to explore whether alternative arrangements can be agreed.
- The employee will be informed in writing of the outcome of a formal capability meeting and the reasons for it, within five working days.
- Any decision to suspend will be taken by the Head of Institution in consultation with the relevant HR Business Manager and confirmed in writing within five working days.
- Under the formal stages of the procedure, guidelines are provided on appropriate periods during which an Improvement Notice will remain active. This will usually be six months for a First or Final Improvement Notice and one year for a Final Improvement Notice. Institutions are advised to discuss review periods with the relevant HR School teams to ensure they are consistent and proportionate.

Please also see section 5.1.9 of the Capability Policy for further information relating to timescales.

10.0 Appeals

Appeals against warnings or other sanctions

An appeal against the outcome of any formal stage should be made in writing under the appeal procedure for the relevant staff category. The purpose of the appeal hearing is to establish if the outcome of the procedure was appropriate and procedurally correct.

[Appeal procedures](#)

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11.0 Capability Toolkit

Skills to support managers and individuals

Very few of us choose to perform our work badly, make mistakes or fail to complete tasks. There are often good reasons why an individual is struggling at work, such as problems with colleagues or at home, ill health or other personal issues. Alternately they may not have received the necessary training and support they needed when starting a new job or receiving a promotion. It may be that the individual's skills and abilities are just not suited to the area of work they are in but they would thrive in other areas. It is important that the individual shares their concerns as early as possible with their manager in order to get the support they need to perform successfully.

It can be very difficult and challenging to accept when we are underperforming and to know how to tackle it. The primary purpose of the Capability Policy is to ensure that individuals receive the support needed to help them to improve their performance to the standard required. Individuals are encouraged to share with their managers any underlying causes that might be affecting them and what support, advice or training they may need to improve.

This toolkit aims to be helpful both to managers in supporting the performance of their direct reports and to all employees wishing to improve their performance at work. It has been developed as a resource to dip in to and out of so may not be relevant to all situations or individuals at all times.

A helpful online resource '**Challenging conversations and how to manage them'** can be found on the [ACAS website](). It includes guidance on how to prepare for and handle a difficult conversation, including the stages of the meeting.

In this toolkit the following areas are included:

A Managing capability
1) Template Performance Improvement Plan
2) Self-review of performance and development
3) Key principles for capability meetings
4) Giving feedback
5) Receiving feedback
6) Handling challenging conversations including stages of a meeting
7) Handling emotions

B Further relevant information
8) Management styles
9) Learning styles and development activities
10) Setting performance standards
11) Setting objectives

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Toolkit Section A: Managing Capability

1) Template Performance Improvement Plan

Target area *Detail specific area where performance standards have not been met*	Performance concern *Detail specific dates and examples of where the standards have not been met*	Expected standard of performance *Detail what is expected of the employee in terms of their performance i.e. what does 'good' look like*	Agreed improvement actions *Detail what actions need to be taken to meet expected standard of performance*	Support *Detail what has been agreed in terms of support required to achieve the expected standard of performance*	Review Date	Review notes *Detail improvement made and any future review dates*	Date to achieve expected standard
EXAMPLE: Organisational skills - difficulty organising workload on a daily basis.	**EXAMPLE:** Two deadlines missed (insert details) and complaint received from Department X who did not receive a response to an email sent twice on (insert dates).	**EXAMPLE:** To effectively manage workload on a daily basis, meet deadlines efficiently, prioritise tasks and respond to emails in a timely manner. Measured by management observation of performance of tasks.	**EXAMPLE:** Operate daily 'To Do' check list and a diary. To respond to emails received within 3 working days.	**EXAMPLE:** Training in Outlook task lists and calendar. To work shadow colleague Y in prioritising her daily tasks.	**EXAMPLE:** To be reviewed in 4 weeks (insert date).	**EXAMPLE:** Outlook training completed on (insert date), daily to do lists being written. Responding to emails faster, but further improvement needed. Work shadowing will continue. Review in 2 weeks.	**EXAMPLE:** Standard expected to be achieved within 8 weeks (insert date)
EXAMPLE: Accuracy – in research data.	**EXAMPLE:** Repeated inaccuracy of research data (insert details) involving typing errors when transferring raw data into reports.	**EXAMPLE:** To produce accurate data and to enable meaningful analysis and for research publications.	**EXAMPLE:** Employee to double check own work before submission, Keeping records of research carried out to refer to. Supervisor to also check data against records.	**EXAMPLE:** Further training in writing research papers and handling complex data. Time management training.	**EXAMPLE:** To be reviewed during next research project (insert date)	**EXAMPLE:** Training attended and applied effectively in day to day work (give specific examples). Accurate data produced for new research project enabling meaningful analysis (insert details).	**EXAMPLE:** Standard expected to be achieved within 6 months (insert date)

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This action plan has been agreed by:	Signed	Date
Manager		
Employee		

2) Self-review of performance and development

All of us as employees have the responsibility to perform our duties to an acceptable standard and to seek to improve where our performance falls below the standards required. Managing your own performance effectively is about setting targets, planning and prioritising your work, seeking feedback and support when required and regularly reflecting and assessing how well you are doing.

Ideally on a regular basis, but particularly where performance issues are apparent, individuals can use self-reflection and assessment to review and identify any positive actions they can take to enhance their performance. Reflection allows you to review, think about, rehearse and ultimately improve your work performance. It may also assist you in seeking feedback, support or advice from your manager or other colleagues. The outcomes of structured reflection might include new and improved ways of doing things, the development of a new skill, the resolution of a problem or the consolidation of learning.

By asking yourself a series of open questions you can review your own learning, mistakes and successes. For example, after completing a particular piece or work or activity, consider the following:

- **What did you do?**
  Think back over the detail of the work or activity you were tackling. What did you do well and why? What did you not do so well and why? Review the final product or outcome; was it the best you could have done; why? Consider any feedback that you received and recognise your achievements.

- **What have you learnt?**
  Try to look beyond the specific task or activity you undertook and think about the less tangible outcomes. What additional skills have you acquired? What have you learnt about yourself and what sorts of strategies worked or didn't work well for you? What might you do differently next time? What development would help you to do it more effectively next time and how can you achieve this?

- **How will you apply that learning to your next task?**
  Try to identify the general principles you have learnt and apply them to new situations. Becoming more aware of the process of learning and the skills you have used will allow you to build on your knowledge and skills in tackling different but related tasks.

If you identify an area that needs to change or be improved, aim to use a positive and proactive problem-solving approach i.e. look at the possible causes and consider all the possible options before deciding what to do. The following questions may help you to look at the wider picture.

- What is the background to this situation?
- What is the key problem? Is my view the same as others'?
- Do I have all the information I need? What assumptions am I making? Where could I get more information?
- How would the situation look once it is improved?
- What are the possible options?
- Who could give me more suggestions for my options?
- Who can help me to decide what to do?
- What support will I need to make the changes?

3) Key principles for capability meetings

The following principles may be helpful for managers conducting informal or formal capability meetings to ensure that the meeting is constructive and well received by the employee. The goal is to work together to ensure performance is improved within a supportive and constructive working relationship.

- approach it positively and calmly
- prepare before you meet to be clear about your key points and desired outcomes
- be open, honest and unambiguous
- be sensitive, the employee may not know there is a problem
- be factual and give examples, do not express personal opinion
- be specific and avoid generalisations
- ask open questions to enable the employee to effectively self-review and identify options for improvement
- listen to the employee and take what they say on board
- use a friendly tone and open body language
- ensure a problem-solving approach, seek to identify all possible options and agree the best plan for improvement
- focus on future improvement
- check for understanding and record the agreed actions
- plan when you will meet again to review and discuss the actions

4) Giving feedback

Feedback can play a significant role in improving performance. Feedback is the sharing of information on an employee's performance with them and on what is required to perform well in the future.
- Positive feedback serves to sustain and reinforce effective performance and is very important to ensure the individual is clear regarding what they are doing well.
- Negative or corrective feedback serves to change performance that is inappropriate or ineffective
- Both should be constructive and lead to positive change in performance or behaviour

Managers may shy away from providing corrective feedback, because they dislike negative interactions and may lack the skills or confidence to deliver it effectively. In addition, if a manager does not give feedback this can:
- mislead the employee by giving the impression that there is no problem
- prolong the problem or allow it to get worse
- deny the employee the chance to improve or put things right
- damage the productivity and efficiency of your business
- lower the morale amongst team members.

Giving feedback is critical in improving an individual's performance and with practice can be incorporated comfortably and quickly into regular interactions with employees. The principles below may assist managers in providing corrective feedback.

Key principles for giving feedback
- Feedback should be given at an appropriate time as soon as possible after the event, and when the recipient is not distracted by emotion or other commitments
- Keep your voice calm and your expression relaxed
- Feedback should be factual and not based on opinions or assumptions
- Use open and probing questions that help the recipient to review the situation and seek possible solutions e.g. What may have caused this to happen? What ideas do you have? What can I do to help you solve this? What could you do differently?

- Solutions must relate to behaviour and outcomes that the recipient has the power to influence or change
- Agree and record solutions. Don't impose your solutions unless you really have to.
- Be specific and concentrate on what actually happened, avoid using 'always' and 'never':

Don't say (generalised statements)	Do say (specific examples)
You are always making mistakes	There are three mistakes in this piece of work
You tend to shout at people	I noticed at last week's meeting that you shouted somewhat aggressively at Jim when he…
You never meet your deadlines	You've missed the monthly deadline six times this year so far, on each occasion by at least two days
Your work is not up to scratch - you'll have to pull your socks up	This piece of work falls short of the standard we require because…
You have a negative attitude towards the rest of the staff	What do you think you could do to improve your working relationship with your colleagues?

A useful model for giving feedback about performance or behaviour
When discussing some particular feedback:
1. Clarify: the performance or behaviour you expect to see
2. Explain: the performance or behaviour that you actually see
3. Discuss: two-way discussion of the situation and the difference between expected and actual behaviour, use open questions to fully clarify and understand the causes and to discuss possible solutions
4. Agree: decide and record what will be done improve the situation
5. Review: make a time to meet to review the results, give feedback and follow-up any further changes that could be made

Remember to balance positive and negative feedback. Positive feedback on its own allows no room for improvement and negative feedback on its own can be discouraging. Feedback should be a motivating factor, leading to improvements in performance or behaviour and more satisfaction in the role

5) Receiving feedback

When it is given and received well, feedback is one of the most useful tools in improving work performance and for feeling recognised and valuable in your role. Both giving and receiving feedback are skills that can be practised and developed, otherwise we may miss the opportunity to listen and act upon what may be very helpful information.

Here are some tips for getting the most out of the feedback you receive, particularly if it in relation to making improvements or changes:
- Approach it positively and calmly. Breathe deeply and don't be defensive.
- Actively listen to the feedback. You will hear more by concentrating on listening rather than explaining or justifying yourself immediately. You should have the chance to give your thoughts about the situation too.
- Ask for specific examples and clarification if what is being said is unclear. This will help to ensure that you understand exactly what is being said and any actions expected as a result.
- Consider the feedback and the ways you can address it. Do you need time to think about it? Is the feedback accurate? What could you do differently? What support might you need? Are there any other underlying issues?
- If there is anything your manager can do to help you, ask them.
- Keep a written record of the key points. This can be used for later reflection, action planning and review and help you to have an accurate and objective overview of the feedback.

- Thank the person who is giving you feedback. Constructive negative feedback can be the most helpful and the difficult to give.
- Return to the conversation to review, clarify and/or discuss further improvement options.

6) Handling Challenging Conversations

6.1 Preparing for a challenging conversation

Talking face to face with an employee about issues or problems you both feel strongly about will take many managers out of their comfort zone. You may be worried that the meeting will turn into a confrontation or that it will not go as planned. This sense of anxiety is a very natural response to a challenging situation but it can be overcome by careful planning, preparation and practise

Before the meeting you need to prepare
- establish the facts
- reflect on what you know about the individual
- decide what questions you will ask the individual to help them reflect on their performance or behaviour
- check relevant policies and seek support if you need it
- plan the meeting and be clear what you are aiming to achieve
- be prepared to listen and react calmly and professionally.

During the meeting use supportive and encouraging gestures, such as nods of the head and smiles
- Make eye contact: look at the speaker directly without staring
- Take notes: jot down key words and use these for later questions
- Look interested by facing the speaker, altering your facial expression and staying relaxed and calm
- Ask questions – but try to avoid interrupting**.**

6.2 Model outline of the stages of a meeting about capability:

Introduction – set the right tone
• Begin the conversation by explaining the purpose of the meeting
• Set out the structure of the meeting
• Agree standards of behaviour required during the meeting
• Adopt a calm and professional manner
• Reassure them about confidentiality – both prior to and after the meeting.

Use the feedback model given above to work through the following stages.

State what the issues are and give evidence
• Tell them what the problem is using your knowledge of the situation
• Give specific examples and refer to dates, documents, work or specific interactions
• Explain the impact the problem is having on the individual, the team and the organisation.

Ask for an explanation
• Listen to what they have to say – they may need to let off steam
• Keep an open mind and don't jump to conclusions
• Acknowledge their position and any mitigating circumstances
• Introduce your questions and explore the issues together.

Agree a way forward
• Ask the employee for proposals to resolve the situation
• Discuss the options
• Make a decision about the best solution and agree actions and timescales

• Arrange a follow up meeting

After the meeting
Record any agreement and give a copy to the employee. This should set out:
• agreed outcomes with dates and standards required
• any support or training to be provided by the manager
• any consequences if the agreement is breached.
• how you will monitor and feedback on progress and continue to provide support where agreed.

Finally, remember to focus on the behaviour rather than the person and to remain objective and non-judgemental at all times.

7) Handling emotions
The following principles may be helpful for managers when handling challenging conversations.

- Remain calm but show your concern
- Give the employee time to speak and express themselves
- Acknowledge the employee's emotions and show empathy as appropriate
- Actively listen to the employee with understanding
- Let the employee feel heard by repeating back what they have said to you but in your own words e.g. "John, if I understand you correctly, you are angry because you feel you haven't been given enough support on the new IT system and you feel frustrated because you expected me to do more than I have done when you raised this matter with me last month, is that correct?"
- Try to be comfortable with silence and try not to interrupt silence when it occurs.
- Be aware of your body language and your tone of voice. Make sure your body language is not confrontational (finger pointing, hands on hips), dismissive (eye rolling) or defensive (arms crossed). Stay out of the employee's personal space and avoid physical contact even if it's meant to be reassuring.
- Retain control of the conversation. End the conversation if the employee is growing more and more agitated. Tell the employee you want to reschedule the discussion after a brief cooling-off period, when the conversation can be more productive.
- Take time later to reflect on the discussion. Was the employee calmer when you finished, or more upset? What did you say or do that helped the situation or made matters worse? Reflecting on your words, actions and outcomes will help you be more effective next time and help you understand how to communicate effectively with this employee.

Toolkit Section B: Further relevant information

8) Adapting Your Management Style to Enhance Performance

An effective manager can influence an employee's performance and development by adopting the right style of management to suit the individual and the situation. By adapting your style you can create a positive working environment for you and your team.

Firstly, the amount of direction and support a manager provides should depend upon the competence and commitment of the employee. For example an employee may be extremely experienced and capable, but may not have the confidence or motivation to carry out the task alone. The table below show's how an employee's competence and commitment can vary. It is worth considering which of these categories an employee falls in to when supporting their performance.

Development level	Description
High Competence High Commitment	Experienced at the job, and comfortable with their own ability to do it well. May even be more skilled than the manager.
Moderate/high Competence Variable Commitment	Experienced and capable, but may lack the confidence to go it alone, or the motivation to do it well / quickly
Low/some Competence Low Commitment	May have some relevant skills, but won't be able to do the job without help. The task or the situation may be new to them. May have lost confidence and/or motivation if not making progress as quickly as anticipated.
Low Competence High Commitment	Generally lacking the specific skills required for the job in hand, but highly motivated to tackle it.

Development levels are also situational. An individual might be generally skilled, confident and motivated in their job, but may still be faced with a task requiring skills they don't possess and therefore require closer support and encouragement. Effective managers are versatile in being able to adapt their management or leadership style according to both the situation, and the competence and commitment of the individual being led. By adopting the right style to suit the employee's development and needs, performance is likely to rise at a faster rate, work gets done, and good working relationships are built.

9) Learning styles and development activities

Learning styles are the different ways in which individuals learn, which can vary from person to person. For example one person may prefer to learn collaboratively in a group setting whereas another person may prefer to work on their own and at their own pace. Some may enjoy learning by 'having a go' while others prefer reading about the new area before being shown it step by step. When considering training and development activities the individual's learning preferences should be taken into consideration.

Once you have identified a particular development area, remember that there a wide range of ways to achieve that development. Many learning activities can be more than just 'going on a course'. A range of possible activities are listed below. Try to be creative when considering development activities with individuals.

- go on a course
- work shadow or swap
- find a mentor or be a mentor for someone else
- reading/research
- observe/speak to 'an expert'
- be 'the expert' and teach someone else
- take opportunity to practise
- attend a meeting/event that you would not usually
- work on a project with others
- delegation – done well this can provide many possibilities for development

If you do decide a course is the best activity to develop a skill or knowledge, consider different training formats which could include:

- Face to face training courses - which can suit those that prefer learning in a group setting.
- Online courses - which can suit those who prefer to learn on their own and at their own pace.
- On the job training - such as shadowing and learning from a colleague.
- Blended training courses - which provide a blend of online a face to face learning.
- Online seminars - which can provide opportunity to access the course without the need to attend in person.

How to ensure the development is effective
Once the development activity has been planned it is important to have a discussion before and after:
- Before - to highlight the objectives and any identify key aspects to focus on.
- After – reflect and discuss how the new skill can be put into practice and any further relevant opportunities as appropriate.

10) Setting performance standards

In taking forward a capability matter a manager must be clear and able to demonstrate three main points: the standards expected of the employee; that the employee was aware of those standards; and that the employee fell short of those standards.

The standards may be obvious and implicit (e.g. letters sent out from this University must have a high standard of literacy) or they may be made explicit (e.g. the specification for a workshop task may specify the margin of tolerance permitted; the standard procedure for an office dealing with student enquiries may stipulate that all letters are acknowledged on the day of receipt). The job description is also a helpful reference point and any local manuals, service level agreements etc.

Consider the following key points:
What standards are required to support the work of your team?
How are they determined?
How are they set out or documented?
Are they reasonable and up to date?
How and when are they communicated?
Are they clear and understandable to everyone?
How are they monitored?

Making the employee aware of the standards involves more than setting out standards at the start of the employment and then waiting to see how the employee meets them. After a careful recruitment and selection procedure to try to ensure that the applicant can do what is needed, careful induction and probation procedures should be followed and consideration given to training in any non-standard skills required. In the first few months regular monitoring is also important to pick up on areas where improvement may be needed, and facilitate learning in those areas. The employee needs to know if at any stage they are under performing and then be given the opportunity to improve their performance, i.e. reach the standard required.

11) Setting SMART objectives or goals
Objectives are used in all areas of your life and work and may be short term to do with tasks you are working on, or longer term work or development objectives. Being SMART gives a framework to help set

clear and well-defined objectives. They should be set at the correct level to motivate - not so big they feel impossible, or so small they are not challenging. Once you have identified what needs to be achieved, you can check that you record it in a SMART way. Please also see the template Performance Improvement Plan.

Specific - Specific goals are clear and have greater chances of being accomplished than general goals. Specific goals explain exactly what is expected and why is it important.

Measurable – Decide clear criteria for success. When you measure progress, it helps the staff member to stay on track, reach their target dates, and experience the exhilaration of achievement that spurs them on to continued effort required to reach their goal.
To determine if the goal is measurable, ask questions such as......How much? How many? How often? How will we know when it is accomplished?

Achievable - To be achievable, a goal must represent an objective toward which the staff member is both *willing* and *able* to work. Set goals which challenge and stretch (but provide the support they need to achieve them!).

Relevant - Goals must be clearly linked to performance objectives of the individual/team and the job they are required to do.

Timed – Goals should have a target date. A commitment to a timeframe helps focus efforts on completion of the goal on or before the due date. This can also help to prevent goals from being overtaken by other day-to-day priorities.