

CAPABILITY GUIDELINES

1. Introduction

- 1.1 The University is committed to supporting and developing its staff to ensure that they are able to fulfill their roles and responsibilities to a high standard of competence.
- 1.2 Performance management is an integral part of day-to-day management and may include the setting and reviewing of objectives and progress to their achievement; ensuring an understanding of the role and the skills which are required; dealing with minor issues as they occur; performance appraisal and mid-cycle review; and discussions within team and individual meetings. Although such discussions may reveal problems, which are ultimately dealt with under these guidelines, they are not part of the procedure themselves.
- 1.3 The standards of performance will be set by local line managers in accordance with University, School and Divisional requirements and within the reasonable expectations for the post.
- 1.4 These Capability Guidelines (“the Guidelines”) provide a framework for dealing with cases where staff are not able to achieve the performance standards expected of them following the normal course of discussions with management about shortfalls in performance. The procedure aims to manage performance issues by identifying the causes or contributory factors and by ensuring that, as far as possible, all staff are enabled to fulfill their responsibilities in line with the aims and objectives of the University.
- 1.5 The Guidelines address the *ability* to carry out a job to the required standard (the ‘not able to’) as opposed to issues of willful inadequacy or *misconduct* (the ‘won’t’), which are handled through the University’s disciplinary procedure.
- 1.6 The Guidelines also recognise that a proportion of University staff will not be able to make the necessary improvement to be able to perform to the required standard, and provides managers with the mechanism to deal effectively with these cases.

- 1.7 Should a member of staff feel that the apparent capability issue has arisen because of their relationship with their manager, rather than a shortfall in performance, the member of staff will have an opportunity to discuss their concerns with the Human Resources Manager, Senior Adviser or Adviser (referred to as “HR” throughout these Guidelines) before any formal action is taken.

2. Application

- 2.1 In order to ensure consistency of treatment the guidelines apply to all categories of UEA staff other than those employed on ATR, ATS or ALC terms and conditions and it will be applied in accordance with the University’s Equality and Diversity in the Workplace policy.
- 2.2 Any changes to the legislative framework that affect this local agreement will automatically be incorporated.

3. Principles

- 3.1 The Guidelines are made up of a formal Capability Meeting and up to three formal review meetings. Between each meeting, line managers are encouraged to undertake regular reviews of progress against the objectives for improvement. Failure to reach the required standards by the deadline for any objective may result in a meeting being convened at the next formal stage.
- 3.2 The Guidelines have been developed using ACAS established good practice and fully reflect current employment law guidelines.
- 3.3 The Guidelines have been drawn up in consultation with the recognised campus trades unions.
- 3.4 At every stage in the Guidelines the employee will be advised of the nature of the shortfall in performance in good time and will be given an opportunity to respond before a decision is made on the action to be taken.
- 3.7 Where circumstances necessitate this, the employee may call relevant witnesses to give evidence on their behalf and adjournments may be arranged for further consideration of issues before a decision is made on the action to be taken.
- 3.8 Employees will have the right to be accompanied by a trade union representative or work colleague at all formal stages of the process if they wish. The chosen representative or companion has a statutory right to address the meeting but not to answer questions on the employee’s behalf.

- 3.9 Where an employee is required to attend a Capability Meeting reasonable advance notification will be given in writing, normally of not less than five days.
- 3.10 A member of the Human Resources Division (HR) will be present at formal meetings to provide advice and to ensure consistency of practice.
- 3.11 Where objectives to improve performance have been set the manager responsible will monitor progress and will give feedback on a regular basis, following up with a written summary which will be given to the employee as a formal record.
- 3.12 An employee who considers that the outcome of review meetings at stages 1, 2 and 3 is unreasonable on the grounds outlined within paragraph 7.1 below will have the right of appeal.
- 3.13 In cases where an employee is an accredited trade union representative the relevant Full Time Officer will be contacted before the capability guidelines are initiated.

4. The role of informal discussions

- 4.1 Wherever possible, managers should address any performance problems as they occur, and without the need to implement the capability guidelines.
- 4.2 In the first instance, such performance issues will normally be dealt with informally between an employee and the line manager as part of day-to-day management. Positive support and encouragement shall be offered to assist the employee in meeting the required standards.
- 4.3 Informal discussions may help to:
- clarify the required standards;
 - identify areas of concern;
 - establish the likely causes of poor performance;
 - identify any coaching or training needs;
 - set targets for improvement and a timescale for review; and/or
 - identify any means of support to achieve objectives.
- 4.4 If performance issues are resolved informally, then no further action may be necessary.
- 4.5 Where performance issues are more serious, or where they are not resolved through informal management discussions, then formal action may be considered.

- 4.6 Formal action will not be taken until the case has been fully investigated. The investigation process will depend on the circumstances, but will normally consist of a review of the shortfall in performance, any relevant documents or e-mails, the details of any previous efforts to guide or support the employee towards acceptable standards and notes of any meetings with the employee or others about the shortfall in performance.
- 4.7 Depending on the seriousness of the matter, the formal procedure may be started at any stage. However, members of staff will not normally be dismissed for performance reasons without previous warnings.
- 4.8 Where an employee commits a single significant error, or a number of substantial errors which are attributable to incompetence or inability to meet the required standards of the job and the actual or potential consequences of that error are, or could be, extremely serious, consideration will be given to commencing the capability process at the highest formal stage and/or to suspending the employee on full pay. Where this happens, the process set out in Section 8 of the Support Staff Disciplinary and Dismissal Procedure will apply.

5.0 The impact of disability and sickness on performance

- 5.1 Where it becomes apparent that ill health is a possible reason for performance issues, the manager will contact HR for advice on whether the process should be paused while an Occupational Health opinion is sought, or whether the Sickness Absence Management Guidelines should be followed.
- 5.2 Consideration will be given to whether poor performance may be related to a disability and, if so, whether there are adjustments which should be made in relation to the employee's working arrangements. These considerations should take place prior to any formal meetings. Additional information regarding adjustments is available within the Disability Code of Practice.

6. Formal Process

6.1 Formal Capability Meeting

Most performance issues are likely to be addressed at this stage, which provides an opportunity to encourage open discussion of the issues involved and to seek effective solutions including the involvement of appropriate support services, such as CSED, Occupational Health and the Counselling Service.

- 6.2.1 Where a manager identifies an apparent performance issue, following discussion with HR, arrangements will be made to meet with the individual. In order to allow sufficient time for preparation the individual should be given

at least 5 days' notice of the meeting and be provided with an opportunity to be represented. Full details of the concerns regarding performance will be provided at this time. HR will attend the meeting. At the meeting the following points should be discussed:

- identify the performance issue and clarify the required standards;
- explain clearly the shortfall between the individual's performance and the required standards;
- establish the cause of the performance issue and any action which can be taken to help to improve the situation;
- identify any support services or investment which might be required;
- warn that failure to improve will result in further action under the capability guidelines;
- obtain commitment from all concerned to assist in resolving the problems;
- agree a reasonable time-scale for the individual's performance to improve;
- set a date for a review meeting to ensure that progress is being made.

6.2.2 All objectives should be "SMART" i.e.

Specific
Measurable
Agreed
Realistic
Time limited

6.2.3 The nature of the shortfall in performance will determine the type and range of help to be provided but it could include:

- monitoring review and variance of workload and responsibilities;
- monitoring standards of performance against agreed objectives and the current requirements of the job;
- review of the availability of suitable resources or materials;
- training or coaching specifically aimed at achieving an improvement in performance;
- the identification of a mentor;
- review of the amount of supervision needed;
- referral to the Counselling Service, with the agreement of the member of staff concerned (particularly if the meeting establishes that performance issues are related to the individual's personal life);
- opportunities to see good practice elsewhere within the University (or other organisation).

6.2.4 After the meeting, the manager should give the member of staff a written action plan that contains:

- a detailed summary of the improvements required with clear objectives, targets and timescales for demonstrable improvement;

- details of areas where support is needed, and the means of achieving that support;
- any agreed adjustments to the working environment.

6.2.5 The manager will monitor and assess the member of staff's performance. The timescale will vary depending on the circumstances. As a guideline, a monitoring period of between four and ten working weeks will be typical, with reviews as appropriate, but this could be shortened or lengthened where improvement is required immediately, significant improvements have already been made or where the timing of particular work is different. The manager will keep a written record of the monitoring and feedback process.

6.3. **Stage 1 Review Meeting**

6.3.1 At the end of the monitoring period, the manager will meet with the member of staff to formally review progress. The member of staff may be represented if they wish and HR will attend the meeting. Again, appropriate notice should be given to allow for preparation (normally five days).

6.3.2 At the meeting the manager will:

- outline the process followed to date and the outcomes;
- give a clear indication of the outcomes of the monitoring process, and identify progress made;
- outline the aspects of the member of staff's work which are still unsatisfactory and any further improvements needed;
- give the member of staff the opportunity to ask any questions for clarification, and to respond to the issues raised;
- discuss, and agree as far as possible, a plan of action, targets and timescale for improvement

6.3.3 The manager should decide in the light of the issues discussed what action is appropriate. Available options include:

- no further action as the member of staff's performance has improved sufficiently;
- an extension of the monitoring stage;
- confirmation of a formal written warning if significant improvement is not evident or is unlikely to be achieved within a reasonable timescale.

6.3.4 Where a decision is made to issue a formal written warning, the meeting may be adjourned to consider the appropriate objectives for improvement in performance.

6.3.5 Wherever possible, the member of staff should be informed of the manager's decision at the end of the meeting. HR will confirm this in writing as soon as possible, and within five working days.

- 6.3.6 Where the decision is to issue a formal warning, the letter confirming the outcome of the meeting will contain the following information:
- confirmation of the formal warning and the appeals procedure;
 - confirmation that failure to make the necessary improvements will result in further action under the capability procedure;
 - details of those areas where performance remains unsatisfactory, the improvements required and the timescale for their achievement and review.

6.3.6 Written warnings will be in accordance with paragraph 12.3 of the Support Staff Disciplinary and Dismissal Procedures.

6.4 Stage 2 Review Meeting

6.4.1 At the end of the timescale for improvement in performance, the manager will meet with the member of staff to review progress. The member of staff may be accompanied if they wish and HR will attend the meeting. Again, appropriate notice should be given to allow for preparation (normally five days).

6.4.2 At the meeting the manager will follow the process outlined in 6.3.2 and the manager should decide in the light of the issues discussed what action is appropriate, using the guidance in section 6.3.3.

6.4.3 Where a decision is made to issue a final written warning, the meeting may be adjourned to consider the appropriate objectives for improvement in performance.

6.4.4 Wherever possible, the member of staff should be informed of the decision at the end of the meeting. HR will confirm this in writing as soon as possible, and within five working days.

6.4.5 Where the decision is to issue a final warning, the letter confirming the outcome will contain the following information:

- confirmation of the final formal warning and the appeals procedure;
- detail those areas where performance remains unsatisfactory;
- warn the member of staff that failure to improve to the required standards may result in termination of employment.

6.4.6 Final written warnings will be in accordance with paragraph 12.4 of the Support Staff Disciplinary and Dismissal Procedures.

6.5 Stage 3 - Review Meeting

- 6.5.1 At the end of the timescale for improvement in performance, the Head of School, Director of Service, or a nominated deputy will chair the Stage 3 Review Meeting. HR will be present to advise on the procedure and keep a formal record of the meeting. The member of staff may be represented if they wish. Again appropriate notice should be given to allow for preparation (normally five days) and the employee should be reminded that failure to improve to the required standards may result in termination of employment.
- 6.5.2 At the meeting the manager who has handled the first two stages will:
- outline the process followed to date and the outcomes;
 - give a clear indication of the outcomes of the monitoring process, and identify any progress made;
 - outline the aspects of the member of staff's work which are still unsatisfactory and any further improvements needed.
- 6.5.3 The member of staff will be given the opportunity to ask any questions for clarification, and to respond to the issues raised and to explain his/her continued failure to achieve and maintain the required level of performance, and/or the circumstances which have led to the lack of capability to perform the required duties.
- 6.5.4 The Chair should decide in the light of the issues discussed what action is appropriate. Available options include:
- no further action as the member of staff's performance has improved sufficiently;
 - an extension of the monitoring stage;
 - the possibility of a redeployment to a more suitable post where one exists, in accordance with the relevant section of the Guidelines for Dealing with Redundancy and Redeployment;
 - early retirement (without enhancement) where permitted by Pension Scheme rules;
 - mutually agreed termination of employment;
 - dismissal with due notice.

7. Appeals Process

- 7.1. A member of staff may appeal against the outcome of reviewing meetings at stages 1, 2 and 3 on the grounds of:
- perceived unfairness of the outcome;
 - severity of the outcome;
 - new evidence coming to light that could not have reasonably been known at the time of the meeting;
 - procedural irregularities.

7.2 The guidelines set out in the Support Staff Disciplinary and Dismissal Procedures will be followed. Staff may be accompanied at any appeal meeting.

Human Resources Division
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