**Procedure**

The aim of this procedure is to support employees in achieving the required performance standards. We will deal with concerns over performance fairly and take steps to establish the facts and to give employees the opportunity to respond at a hearing before any formal action is taken.

Our aim is to deal with performance matters sensitively and with due respect for the privacy of any individuals involved. All employees must treat any information communicated to them in connection with a matter confidentially.

Where poor performance is due to negligence or unwillingness to carry out duties properly and standard needed though this would be dealt with as a conduct issue under the Disciplinary Policy at the outset.

Where an employee’s capability to do their job is because of health reasons this will also be appropriately supported and managed.

**Responsibilities of the Employee**

You should:

* Work effectively and perform your duties to a high standard.
* Take responsibility and accountability for your work.
* If you are struggling in your work then you should raise this with your line manager who will provide support and guidance. Line managers may suggest training or other measures to assist with the issues you have raised.
* You will then be responsible for working through the training offered by the line manager put in place to improve your performance and skillsets.

**Informal process**

If we have concerns regarding your capability or performance then we will discuss these with you i**nformally** and you will be given time to improve. The purpose of this **informal meeting** is to:

* Discover possible causes.
* Highlight where and how the performance falls short of the required standard and ensure that you are given an opportunity to your view of your performance.
* Set targets and objectives to help you to achieve the expected standard.
* Your line manager will explore with you ways of assisting to reach these targets, e.g. increased training, supervision, re-training, coaching etc.
* Your line manager will agree a timetable for improvement. The period of the timetable will differ according to the needs of the individual with performance monitored during this period.

All of these actions may be captured using a Performance Improvement Plan (PIP).

**Formal Process (\*) – Capability Hearings**

**Notification**

If we consider that there are grounds for taking formal action over alleged poor performance, you will be required to attend a capability hearing.

We will give you written notice of the date, time and place of the capability hearing. The hearing will be held as soon as reasonably practicable.

You may bring a companion to any capability hearing or appeal hearing under this procedure. The companion may be either a trade union representative or a colleague. You must tell the manager conducting the hearing who your chosen companion is, in good time before the hearing.

**Procedure at the hearing**

The hearing will normally be chaired by a manager and will normally be attended by a member of the HR Department. Your companion may make representations, ask questions, and sum up your case but will not be allowed to answer questions on your behalf.

You may ask relevant witnesses to appear at the hearing, provided you give us sufficient advance notice to arrange their attendance. You will be given the opportunity to respond to any information given by a witness.

A capability hearing will usually cover the following:

1. Setting out the required standards that we believe you may have failed to meet and going through any relevant evidence that we have gathered.
2. Allowing you to ask questions, present evidence, call witnesses, respond to evidence and make representations.
3. Establishing the likely causes of poor performance, including any reasons why any measures taken so far have not led to the required improvement.
4. Identifying whether there are further measures, such as additional training or supervision, which may improve performance.
5. Where appropriate, discussing targets for improvement and a time-scale for review.
6. If dismissal is a possibility, establishing 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.

We will inform you in writing of our decision and our reasons for it, usually within one week of the capability hearing.

**Stage 1 Hearing – First written warning**

Following a Stage 1 capability hearing, if we decide that your performance is unsatisfactory, we will give you a first written warning setting out the areas in which you have not met the required performance standards, targets for improvement and a period for review. You will also be advised of the consequences if your performance does not improve.

The warning will normally remain active for six months from the end of the review period. After the active period, the warning will remain permanently on your personnel file but will be disregarded in deciding the outcome of any future capability proceedings.

Your performance will be monitored during the review period and we will write to inform you of the outcome.

**Stage 2 Hearing – Final written warning**

If your performance does not improve within the review period set out in a first written warning, or if there is further evidence of poor performance while your first written warning is still active, we may decide to hold a Stage 2 capability hearing.

Following a Stage 2 capability hearing, if we decide that your performance is unsatisfactory, we will give you a final written warning setting out:

1. the areas in which you have not met the required performance standards;
2. targets for improvement;
3. any measures, such as additional training or supervision, which will be taken with a view to improving performance;
4. a period for review; and
5. the consequences of failing to improve within the review period, or of further unsatisfactory performance.

A final written warning will normally remain active for 12 months from the end of the review period. After the active period, the warning will remain permanently on your personnel file but will be disregarded in deciding the outcome of future capability proceedings.

Your performance will be monitored during the review period and we will write to inform you of the outcome.

**Stage 3 – Dismissal/redeployment**

We may decide to hold a Stage 3 capability hearing if we have reason to believe:

1. your performance has not improved sufficiently within the review period set out in a final written warning;
2. your performance is unsatisfactory while a final written warning is still active.

Following the hearing, if we find that your performance is unsatisfactory, we may consider a range of options including:

1. dismissing you;
2. redeploying you into another suitable job at the same or a lower grade; or
3. giving a final written warning (where no final written warning is currently active).

We retain discretion in respect of this Capability Policy to take account of length of service and to vary the procedures accordingly. If you have a short amount of service, you may not be in receipt of any warnings before dismissal but will have a right of appeal.

**Appeal**

If you feel that a decision about poor performance under this procedure is wrong or unjust you should appeal in writing, stating your full grounds of appeal, to your line manager or the HR Department within one week of the date on which you were informed in writing of the decision.

We will give you written notice of the date, time and place of the appeal hearing. This will normally be two to seven days after you receive the written notice.

Where practicable, the appeal hearing will be conducted by a manager who has not been previously involved in the case. A member of the HR Department and manager who conducted the capability hearing will also usually be present. You have the right to bring a colleague or trade union representative to the meeting as outlines above.

We will inform you in writing of our final decision as soon as possible, usually within one week of the appeal hearing. Where possible we will also explain this to you in person. There will be no further right of appeal.

**Overview & Flow Chart (includes identification of support)**

**Informal** **meeting** convened to discuss performance (against agreed targets / objectives). Performance Improvement Plan set up.

Employee performance improves and confirmed in writing

Following completion of review period employee Performance has not improved

Performance Improvement Plan agreed including areas of support e.g. Training. Timeframe for review is set

**Formal Stages of Policy followed (\*)**

**Further Guidance**

**www.acas.org.uk/capability-procedures**