



# **Capability Procedure**

January 2024



## **Purpose**

This procedure is designed to help the College deal with employees who are facing problems in complying with their contractual terms and conditions of employment, or in fulfilling the duties of their post. It is designed to do the following:

1. Ensure that the employee has a clear explanation of what the Line Manager sees as the required performance standard and how they are failing to achieve that standard.
2. To provide an opportunity for the employee and Line Manager to discuss what the causes of a performance issue might be and to agree how they can be addressed.
3. Ensure that appropriate training, supervision, counselling and support are put in place to help the employee meet the required standard.
4. Set a reasonable performance target and a timeline by which it should be achieved.
5. Provide a clear procedure for the termination of employment in cases where it does not prove possible to secure a satisfactory standard of performance.

This procedure applies when poor performance is a result of a lack of skills or a failure to apply those skills. It is not intended to deal with issues of poor behaviour at work such as absenteeism, lateness or lack of honesty. These should be dealt with through the disciplinary procedure:

Where it becomes clear that the failure to make a particular performance standard is the result of an employee having a disability or some other protected characteristic that prevents them from achieving this standard, full consideration must be given to whether reasonable adjustments can be made to their job description.

All employees will have an annual Staff Development Review with their line manager at which issues of skills and training should be discussed. These meetings do not form part of the formal capability procedure.

## **Informal Procedure**

Most performance issues can be resolved without invoking a formal procedure. As soon as a performance issue arises a Line Manager should invite the employee to an informal meeting to discuss the problem and jointly find a solution. The Line Manager will clarify the required performance standard, seek employee input and identify any training or support that is needed. An action plan will be jointly agreed and a date set for a review of progress.

If, at the review meeting, there is evidence that performance is now meeting the required standard no further action will be required. Nothing will be recorded in the employee file.

If the performance target has not yet been met but there is evidence of progress to meeting the required standard an extension may be agreed. This will be documented and a further informal review will be arranged.

Where little or no progress has been made towards meeting the required standard then the employee will be told that the formal procedure will be invoked.



## **Formal Procedure – Written Warning**

The Line Manager will invite the employee, in writing, to a formal meeting to discuss a performance issue. The employee will be given at least five days' notice of the meeting. The employee has the right to be accompanied and represented by another College employee, or by a Union representative.

The Line Manager will clarify the required performance standard and identify why the employee's performance does not meet that standard. The Line Manager and employee will jointly identify any training or support that is needed and agree a formal action plan. A date will be set for a review of progress.

The employee will, within five days of the meeting, receive a written warning that will specify the key performance issues, the formal action plan and the date of a meeting to review progress. The employee has the right to appeal against the written warning. The appeals procedure is set out below.

If, at the review meeting, there is evidence that performance is now meeting the required standard no further action will be required unless the same performance issue arises at a future date. In this case the Line Manager may invoke the formal procedure without the need for informal consultation.

If the performance target has not yet been met but there is evidence of progress to meeting the required standard an extension may be agreed. This will be documented and a further formal review will be arranged.

Where little or no progress has been made towards meeting the required standard then the employee will be invited, in writing, to attend a final formal meeting.

## **Formal Procedure – Final Warning**

The Line Manager will invite the employee, in writing, to a final formal meeting to discuss a performance issue only if the employee has already failed to meet a performance standard set out in a written warning. The employee will be given at least five days' notice of the final warning meeting. The employee has the right to be accompanied and represented by another College employee, or by a Union representative.

The meeting will normally be chaired by the Director of Estates, Bursar, Vice Principal or Principal. The Line Manager will be present at but will not chair the meeting. At the meeting the Line Manager will be asked to describe the required performance standard, the agreed action plan and provide evidence that the employee has failed to achieve the required standard. The employee (or their representative) will be offered an opportunity to give their views and to describe any mitigating circumstances.

The chair of the meeting will confirm the required performance standard and why the employee's performance does not meet that standard. The chair will discuss with the employee and the Line Manager if further training or support is needed and agree a formal action plan. A date will be set for a review of progress.

The employee will, within five days of the meeting, receive a final written warning that will confirm the required performance standard, the formal action plan and the date of a meeting to review progress. The employee will be warned that if their performance does not meet the required standard by the time of the



review meeting they may be dismissed. The employee has the right to appeal against the written warning. The appeals procedure is set out below.

If, at the review meeting, there is evidence that performance is now meeting the required standard this will be documented and a further formal review will be arranged. If the same performance issue arises at a future date the Line Manager may invoke the formal procedure without the need for informal consultation.

Where the required standard has not been met the following outcomes should be considered:

- A revised job description that does not include those duties that the employee is not able to perform to the required standard. This may be at a lower grade.
- Redeployment to another post.
- Dismissal

The employee has the right to appeal against any of these decisions and they will be given the name and contact details of the person to whom any appeal should be made. The appeals procedure is set out below.

## **Appeals**

Appeals against a written warning, final written warning, revised job description, redeployment or dismissal must be delivered in writing to the appeal officer within ten days of the date of the written notification of the decision, and should outline the grounds of appeal. All such appeals will be heard and determined by a panel chaired by an appeal officer. The appeal officer will be a senior college officer and two College Fellows, who have not previously been involved in the case.

At the appeal, the appellant will have the right to state his or her case and, if he or she wishes, to be accompanied and represented by another College employee, or by a trade union representative if they are a union member. The panel hearing the appeal may, if they judge necessary, adjourn the appeal hearing and reconvene it at a later date. The result of the appeal will be notified to the appellant in writing. The decision of the panel hearing the appeal shall be final and there shall be no further appeal within the College.