



Capability Policy & Procedure 2024-2025

Introduction

This procedure follows the basic principles of fairness as set out in the Acas Code of Practice guidance which is accessible on the Acas website.

When dealing with issues relating to work performance, managers will ensure that relevant equality and diversity considerations are taken account of during the process.

All employees have a responsibility to perform their duties to an acceptable standard and should be given reasonable support and encouragement to do so.

Managers have responsibility for setting realistic and measurable standards of performance, for explaining these standards, and for encouraging and motivating employees to achieve them. Managing performance is a continuous process. It is about expectations of day-to-day excellence and achievement. Therefore, regular one to one meetings, together with annual PDRs between all staff their line-manager should facilitate early discussions regarding performance concerns. Early intervention may help resolve problems, without the need for formal action.

All Managers have a responsibility to deal with all cases of under-performance fairly and consistently and will be held accountable for the application of this policy and their subsequent decisions.

Procedure for managing under performance.

1. Informal Process

In the first instance, concerns regarding performance will normally be addressed by the line manager as part of day-to-day management with the individual.

Where managers have concerns that an employee is not achieving or sustaining expected levels of performance, this should be raised with the employee promptly and the individual will be given appropriate guidance and support to improve.

Managers should clarify the standards required, identify areas of concern, and aim to establish possible causes of poor performance including any mitigating circumstances. Managers should identify any training needs and/or provide appropriate support and guidance as required.

Managers should decide what action to take to support and or sustain improvement including setting realistic and achievable targets and timescales by which the required standards should be achieved.

Where a performance issue is on-going, the manager should inform the employee that their performance will be monitored for a specified period to ensure that the necessary improvement takes place. The monitoring period should be set for a reasonable length of time. The exact duration will be dependent on the circumstances.

Managers will also ensure that the employee is aware of the consequences of continued poor performance and/or the failure to meet any specific targets or objectives set, and this together with any Personal Improvement Plan (PIP) put in place, should be confirmed in writing.

Managers should meet with their employee regularly throughout this monitoring period to monitor progress, to provide constructive feedback and provide additional support if necessary.

At the end of the monitoring period the manager should review the overall progress that the employee has made. If the employee's performance has substantially improved no further action should be necessary.

If some improvement has been made the manager may consider an extension of the monitoring period, if they believe it will likely result in the employee reaching the required standard within a reasonable time frame.

Where there has been no measurable improvement or progress made and the employee continues to underperform it may be appropriate to consider progressing to the formal procedure.

Managers should keep accurate detailed notes regarding any discussion had with an employee regarding their underperformance and any actions taken to address the performance issues.

2. Formal Process

The formal procedure may be considered either when previous informal approaches have resulted in little or no improvement in work performance, or there is a more serious case of underperformance.

Prior to inviting an employee to a Formal Capability Meeting, managers should ensure that they have considered all the facts of the case. This may involve conducting an investigatory meeting with the employee and/or the collation of documentation to support the decision to proceed formally.

At all meetings the manager will explain their concerns regarding the employee's performance and the employee will be given the opportunity to respond and offer any explanation for their underperformance including any mitigating circumstances.

3. Formal Capability Meeting

The employee concerned will be requested to attend a Formal Capability Meeting, in writing, with a minimum of 5 working days' notice.

The letter will also detail:

- The purpose of the meeting
- The performance concerns
- The possible outcomes of the meeting
- A summary of any information gathered as part of this procedure and any written evidence which will be used or relied upon
- Confirmation of the right to be accompanied
- A copy of this procedure

The Manager will consider all the circumstances to determine whether it is appropriate to issue a Warning (or Dismiss, if in receipt of previous warnings). Alternative recommendations may be considered appropriate. Where necessary, the meeting can be adjourned for further investigation.

In determining the outcome managers should be aware that their decisions should be based on evidence, be transparent and, if challenged, they should be able to provide a sound rationale/explanation for their decision. Managers are responsible for ensuring that the policy and procedure are applied fairly and reasonably.

Notes of the meeting should be taken, and a copy provided to the employee in a timely manner.

4. Warnings

Where it is concluded that performance is unsatisfactory a First or Final Written warning will be issued.

Sanctions will normally be applied progressively i.e. First warning, Final Warning, Dismissal. However, if an employee's unsatisfactory performance is sufficiently serious, it may be appropriate to move directly to a final written warning or dismissal depending on the circumstances. The level of warning issued will depend on a number of factors including:

- The extent of the underperformance and the effects it has had or is likely to have on the organisation; and
- Any other mitigating circumstances including any health-related issues.

An open-ended warning can only be justified in extreme cases, for example as an alternative to dismissal.

The outcome will be confirmed in writing following the meeting and will confirm the level of any warning and its duration along with any other instructions or measures.

Additionally, it will also set out the details of any improvement plan and/or objectives/targets to be achieved during a defined formal monitoring period, the date of review and any training, guidance, and support to help improve performance.

The letter will also state the consequences of continued poor performance and/or the failure to meet any objectives or targets set in the Improvement Plan i.e. the issuing of a further warning and/or dismissal. The letter will also confirm the right of appeal against the action taken.

5. Warning Periods

The warning period will begin on the day the decision is made and will end in accordance with the periods set out below.

<u>Disciplinary Action</u>	<u>Period 'live'</u>
First written warning	12 months
Final written warning	12 months

6. Right to be accompanied

Employees may be accompanied at a formal capability meeting by a chosen companion.

The companion can present the employee's case but cannot answer questions on the employee's behalf, address the meeting if the employee does not wish it, or prevent the company from explaining the case.

Where the chosen companion is unavailable on the day scheduled for the meeting, it may be rescheduled provided that the employee proposes an alternative date and time within five working days of the scheduled date.

7. Relapse following a period of monitoring

If an employee makes a substantial improvement during a period of monitoring but then subsequently relapses after the monitoring period has concluded the manager may, after taking into consideration the circumstances of the case, proceed to inviting the employee to the formal process.

8. Dismissal

If, following the issue of a formal warning(s), there has been insufficient improvement in work performance, despite all reasonable support having been provided, the employee may be dismissed for reasons of continued unsatisfactory performance.

Where it is concluded that the level of under-performance is so serious it could be considered as negligence, the employee may be summarily dismissed for reasons of gross misconduct – see Staff Conduct Discipline & Grievance Policy.

Depending on the circumstances action short of dismissal may be considered such as transfer to another role (where such a vacancy is available), or other alternative action.

9. Appeals

Employees have the right to appeal against any formal action taken under this procedure. Appeals must be made in writing within 5 working days of the date of the outcome letter and must state the grounds of their appeal.

Employees will receive written notice of the appeal hearing, which will be held without unreasonable delay. Any extensions to timescales will be discussed and reasonably agreed by both parties.

The appeal will be dealt with by a Senior Manager who wherever possible has not previously been involved with the case, supported by a representative from SLT. During the appeal hearing the employee will have the opportunity to put forward their grounds for appeal and the manager will consider these together with any evidence provided to determine a judgement.

10. Appeal outcomes

The appeal judgement may be to:

- Uphold the sanction
- Overturn the sanction
- Impose a lesser sanction

Any appeal outcome will be communicated to the employee in writing within a reasonable timescale. There is no further right of appeal.

Review Date: September 2025