



Staff Performance and Capability Procedure

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Contents

1. Purpose and scope
 2. What this procedure does not cover
 3. Principles
 4. Equality, health and reasonable adjustments
 5. Informal support before formal capability
 6. Threshold for formal capability
 7. Formal capability meeting
 8. Performance Improvement Plan
 9. Monitoring during a capability period
 10. Review meeting and outcomes
 11. Final capability hearing
 12. Written outcomes and warnings
 13. Appeal
 14. Non-attendance, resignation and related matters
 15. Confidentiality and records
 16. Related ReFocus procedures
- Appendix A - Performance Improvement Plan Exemple Template

1. Purpose and scope

This procedure provides a fair, supportive and transparent framework for addressing significant and sustained concerns about an employee's ability to perform the duties and standards of their role to the required level.

Capability concerns relate to ability or competence, rather than deliberate misconduct. The aim is to identify concerns clearly, provide reasonable support and opportunity to improve, and reach a fair outcome. Dismissal on capability grounds is a last resort.

This procedure applies to employees of ReFocus. It does not create an automatic entitlement to every stage or timescale where circumstances reasonably require a different approach, but ReFocus will act fairly and consistently and in line with applicable law and the Acas Code of Practice.

2. What this procedure does not cover

Issue	Procedure
Normal objectives, feedback, coaching and development	Performance Management / line management
Conduct, refusal or deliberate failure to follow reasonable instructions	Disciplinary Procedure
Sickness absence or capability arising principally from ill health	Sickness and Absence / ill-health capability arrangements
Safeguarding, professional-boundary or suitability concerns	Safeguarding Concerns and Allegations About Staff / Safeguarding procedures
Statutory ECT induction progress	ECT Induction Procedure, although formal capability may run separately where necessary
Probation concerns for a newly appointed employee	Probation arrangements, unless ReFocus decides formal capability is appropriate

Where it is unclear whether a matter is capability, conduct, health or safeguarding, ReFocus will consider the substance of the concern before deciding the appropriate route. Safeguarding requirements take priority where relevant.

3. Principles

- Concerns will be based on evidence and reasonable role expectations, not vague impressions.
- The employee will be told what the concern is and the standard required.
- ReFocus will seek to understand the causes of underperformance and consider appropriate support, training, resources and reasonable adjustments.
- Formal capability will not be used simply because an employee has received developmental feedback or has not achieved a single PM objective.
- The employee will be given a reasonable opportunity to improve unless the circumstances are exceptionally serious.

- Decisions will take account of the employee's role, experience, length of service, previous performance, the seriousness and impact of the concern and any relevant mitigation.
- Records will be factual, proportionate and confidential.

4. Equality, health and reasonable adjustments

Before and during capability action, ReFocus will consider whether disability, health, pregnancy, menopause or another protected or relevant factor may be contributing to the concern. Where appropriate, occupational health or other suitable advice may be sought with the employee's informed participation.

Reasonable adjustments may include changes to working arrangements, equipment, communication, workload, training, timescales or the way performance is assessed. Adjustments are intended to remove disadvantage; they do not require ReFocus to remove the essential standards of the role.

Where the principal issue is sickness absence or ill-health capability, the Sickness and Absence Procedure should normally be used instead.

5. Informal support before formal capability

Where concerns first arise, they should normally be addressed through ordinary management support unless the seriousness or history of the concern makes this inappropriate.

- explain the concern and provide examples or evidence;
- clarify the reasonable standard expected;
- listen to the employee's explanation and identify barriers;
- agree support such as coaching, mentoring, training, resources, clearer priorities or reasonable adjustments;
- set a reasonable review period and explain how improvement will be assessed; and
- keep a proportionate written record of agreed actions and review points.

Informal support is not a formal capability warning. If improvement is sufficient, no formal action is required.

6. Threshold for formal capability

Formal capability may be considered where there is evidence of significant and sustained underperformance against the reasonable standards of the role and informal support has not produced sufficient improvement, or where the seriousness of the concern makes a formal process reasonable from the outset.

The Headteacher or authorised senior leader will decide whether the threshold has been reached. The employee will be notified in writing that formal capability is being initiated and will receive:

- the areas of concern and supporting evidence;
- the standards required;
- details of the formal capability meeting;
- the potential outcomes of the meeting;
- the right to be accompanied; and
- a copy of this procedure or information on how to access it.

7. Formal capability meeting

The formal capability meeting will be chaired by the Headteacher or another suitably authorised person. The employee will have a reasonable opportunity to respond, provide relevant evidence and explain any factors affecting performance.

The employee may be accompanied by a trade union representative or workplace colleague. ReFocus may agree another companion where this is a reasonable adjustment or otherwise appropriate.

Possible outcomes include:

- no formal action;
- return to informal support where appropriate;
- a first formal capability warning and Performance Improvement Plan;
- in a sufficiently serious case, a final capability warning and Performance Improvement Plan; or
- other reasonable action, including consideration of suitable alternative duties or a suitable vacant role where available and appropriate.

8. Performance Improvement Plan

Where a formal capability warning is issued, a written Performance Improvement Plan (PIP) will normally set out:

- the specific standards or aspects of performance requiring improvement;
- clear and reasonable objectives or success criteria;
- the evidence that will be used to assess progress;
- support, training, coaching, resources or adjustments to be provided;
- who will provide the support;
- a reasonable review period;
- review or monitoring arrangements; and
- the possible consequences if sufficient improvement is not achieved.

The length of a review period will depend on the nature and seriousness of the concern, the employee's role and the time reasonably needed to demonstrate improvement. ReFocus will avoid artificial timescales that are too short to allow meaningful improvement, while recognising that serious underperformance may require prompt resolution.

9. Monitoring during a capability period

Monitoring should be proportionate and relevant to the concerns identified. It may include work review, observation, data, records, feedback, meetings, role-specific outputs or other reasonable evidence.

Where classroom practice is being monitored, observation should focus on the identified concern and the required standard. Normal developmental learning walks or coaching activity do not become formal capability monitoring unless this is made clear to the employee.

The employee should receive feedback during the review period and should not normally have to wait until the end of the period to learn whether progress is on track.

10. Review meeting and outcomes

At the end of the review period, a formal review meeting will consider the evidence and the employee's response. Possible outcomes are:

- sufficient improvement - formal capability ends and normal performance management resumes;
- partial but meaningful improvement - the review period may be extended where reasonable;
- insufficient improvement following a first capability warning - a final capability warning may be issued with a further PIP;
- insufficient improvement following a final capability warning - the matter may proceed to a final capability hearing.

A decision to extend a review period should be based on evidence that additional time is reasonable and potentially productive, rather than simply delaying an outcome.

11. Final capability hearing

Where sufficient improvement has not been achieved following appropriate support and formal warnings, the employee may be invited to a final capability hearing. The invitation will explain that dismissal on capability grounds is a possible outcome and will provide the evidence to be considered.

The hearing will normally be conducted by the proprietor or a person/panel with delegated authority who has not previously made the recommendation to dismiss, wherever reasonably practicable. The employee may be accompanied by a trade union representative or workplace colleague.

The hearing will consider whether:

- the performance standard was reasonable and clearly communicated;
- the evidence demonstrates continuing underperformance;
- appropriate support, training, resources and reasonable adjustments were provided or considered;
- the employee had a reasonable opportunity to improve;
- there are relevant mitigating circumstances;
- a further review period would be reasonable; and
- a suitable alternative role or duties are available and appropriate.

Possible outcomes include no further action, a further or extended improvement period, another reasonable management outcome, redeployment by agreement where suitable, or dismissal with the employee's contractual or statutory notice and outstanding entitlements.

12. Written outcomes and warnings

Formal decisions will be confirmed in writing as soon as reasonably practicable. A capability warning will explain the concern, required improvement, support, review period, how progress will be assessed, the duration/status of the warning and the possible next stage.

Capability warnings will normally remain active for a stated period. Once expired, they will not normally be relied upon as an active warning, although an appropriate factual record may be retained in accordance with ReFocus retention arrangements.

13. Appeal

An employee may appeal a formal capability warning or dismissal. The appeal should normally be made in writing within 10 working days of receiving the decision and should explain the grounds of appeal.

The appeal will be heard without unreasonable delay by a person or panel not previously involved in the decision wherever reasonably practicable and with authority to change the outcome. The employee may be accompanied by a trade union representative or workplace colleague. The appeal outcome will be final within the ReFocus procedure.

14. Non-attendance, resignation and related matters

ReFocus will make reasonable efforts to enable an employee to participate in meetings. This may include rearranging a meeting, considering health advice, remote participation, written representations or other reasonable adjustments. Where an employee remains unable or unwilling to participate and further delay would be unreasonable, ReFocus may make a decision on the information reasonably available.

Resignation does not necessarily prevent ReFocus completing a capability process where there is a legitimate reason to do so, including accurate employment records, references, safeguarding or regulatory obligations.

15. Confidentiality and records

Capability information will be handled confidentially and shared only with those who need it for legitimate management, governance, advice or employment purposes. Records will be retained in accordance with ReFocus data-protection and retention arrangements.

16. Related ReFocus procedures

- Performance Management Procedure
- Staff Handbook and Code of Conduct
- Disciplinary Procedure
- Grievance Procedure
- Sickness and Absence Procedure
- ECT Induction Procedure
- Safeguarding Concerns and Allegations About Staff Policy
- Equality and Diversity arrangements
- Staff Wellbeing and Menopause arrangements where relevant

Appendix A - Performance Improvement Plan

Employee: _____ Role: _____ Manager: _____

Date: _____

Area requiring improvement	Required standard / success criteria	Support / resources / adjustments	Evidence / monitoring	Review date

Summary of support to be provided:

Possible consequence if sufficient improvement is not achieved:

Employee comments:

Signed (employee): _____ Signed (manager): _____ Date: _____
