

Canterbury College Performance & Capability Procedure

1. Policy Statement

The College has a responsibility to provide highest levels of quality in teaching and learning and ensure business continuity, and is committed to ensuring all employees are given every opportunity to deliver and maintain a high level of performance at work. It aims to support employees to work effectively.

All employees should be made fully aware of the performance standards they are expected to deliver. They should have regular meetings with their manager to discuss their work and performance, where clear objectives and standards, and personal development plans will be agreed for the relevant reporting periods.

Where any instances of poor performance or capability are identified, the College will always provide the employee with an opportunity to make improvements, and the appropriate support required to do so.

Concerns about capability or performance may arise from a number of factors, including:

- changes in the nature and allocation of work, including heavy workload;
- personal/family difficulties;
- short-term health problems;
- reorganisation or redefinition of role;
- lack of proficiency and poor overall organisation;
- lack of aptitude, skill or experience;

2. Scope and Purpose

This policy applies to all employees, except for those in a probationary period and Senior Post Holders

The purpose of the Performance & Capability Policy is to:

- Help and encourage employees to achieve the required standards
- Ensure that the required standards of work performance are maintained
- Provide a framework for dealing with issues of poor performance in a fair and consistent manner.

This document outlines the procedures to follow where an employee is at work, but is not meeting the required standards of performance. It does not apply to instances where:

- An employee is absent from work due to sickness or ill health, which should be managed through the College's Attendance Management Policy.
- An employee is negligent, deliberately careless, unwilling to carry out their duties, or undergo the required development to reach necessary standards, which should be managed through the College's Disciplinary Policy.

3. Principles of the Policy

The College will observe the following principles in all cases involving unsatisfactory standards of performance:

- Employees will be informed at the earliest possible opportunity when there are areas of their performance which are falling short of the required standard, initially through the informal capability procedure (see 6 below)
- Meetings, decisions and confirmation of decisions will be timely and normally be within the timescales outlined in this document
- At all stages managers will discuss the situation with employees, who will have a chance to give their view before any decisions are made
- Managers will investigate to ensure they take all relevant information into consideration to establish the facts
- Managers will give employees the opportunity and support to improve their performance
- Employees have the right to be accompanied by a Trade Union Representative or workplace colleague at all formal meetings which form part of the Capability Policy
- Employees will have the right of appeal against any formal action taken
- Where unsatisfactory performance results from undue attention or neglect by employees, or failure to follow reasonable instructions, managers may consider the case as one of unsatisfactory conduct under the Disciplinary Policy
- Where health or disability issues may be having an impact on performance, managers will always seek professional medical advice before taking formal action

4. Responsibilities of those Involved

Managers are responsible for:

- Ensuring employees have a manageable workload
- Regularly meet and review work and objectives
- Setting realistic objectives and standards for performance in consultation with employees

- Giving honest and constructive feedback on performance
- Regularly ensuring the training and development needs of their employees are identified and met so that they can meet their objectives and any targets set
- Making employees aware of and addressing performance issues at the earliest opportunity
- Considering whether there are issues in or outside of work which may be impacting on employees ability in undertaking the work to a satisfactory standard

Employees are responsible for:

- Ensuring their performance meets the requirements of their role and any targets set
- Advising their managers at the earliest opportunity of any issues, in or out of work, affecting or likely to affect their performance
- Fully engaging with their managers when dealing with issues relating to their own performance
- Keeping their professional knowledge up to date, through relevant CPD, which can include work placement experience or independent research and is in line with the Institute for Learning regulations

5. Methods of Improving Performance

There are many tools employees and their managers can make use of to help prevent poor performance, and aid performance improvement. Some of these are listed below, and should be considered by both parties when deciding how performance improvement can be supported:

- Appropriate adjustments to workload
- On the job training, either provided by a suitably qualified colleague, or self-managed
- Arranging for coaching / mentoring to take place
- Temporary secondment to other areas of work to develop specific skills or knowledge, or to gain an insight into other ways of working
- Providing additional equipment / resources to enable the employees to perform their role more effectively, taking into account what provision is reasonable
- Providing closer supervision and guidance to employees in a structured way, temporarily or on an ongoing basis
- Identifying and providing access to training courses or professional development activities which will help employees learn or further develop specific skills. These could be related to technical skills, or more general skills, i.e. customer service or leadership and management
- Considering referral to Occupational Health or Staff Counselling Service where health or personal issues may be affecting performance. Managers should consult the Welfare & Equality Team Leader at the earliest opportunity
- Agreeing the use of a Performance Improvement Plan, as outlined below.

6. The Informal Procedure

Managers are ultimately responsible for setting and monitoring objectives and standards of performance for employees. In most cases managers should handle issues of under-performance through normal day to day interactions, supplemented by regular one to one meetings. Where this approach does not lead to the required improvements, managers should follow the Informal Procedure outlined below:

- Managers will draw an employee's attention to their unsatisfactory performance immediately, or as soon as is practicable, and confirm that they are following this informal procedure
- Managers will clearly explain to employees where they believe they are failing to reach the necessary standards. Managers will also give employees the opportunity to indicate any reasons or underlying causes for the unsatisfactory performance
- Managers and employees will jointly identify and discuss clear targets for improvement with timescales and regular review points, and any training or other activities necessary to achieve them
- A Performance Improvement plan should be used at the informal stage if, after discussion, both parties agree that it will help to provide a structured approach to addressing the performance issue
- Managers will explain that if there is no improvement within the agreed review period, then formal action may be taken
- A written record of discussions and agreements from the informal procedure will be retained for future reference
- Managers will review the situation with the employee throughout the review period at regular intervals (normally at least monthly), and agree if the review period needs to be extended, or if further support is required

Where managers have taken informal steps to improve performance, and these have not led to the required improvements within the review period, then they will proceed to stage 1 of the formal capability procedure after seeking advice and guidance from their HR Adviser as appropriate.

7. The Formal Procedure

At all stages of a formal capability procedure, employees have the right to be accompanied by a Trade Union representative or workplace colleague. When arrangements for meetings are confirmed, it is the employee's responsibility to notify their chosen representative of the arrangements, and to notify the chair of the meeting of the name of the person accompanying them. Reference should be made to Section 7 of the College's Disciplinary Procedure.

7.1 Performance Improvement Plans

Where any of the formal stages of the capability procedure lead to a formal warning, the manager and employee should immediately work together to create a Performance Improvement Plan, covering all relevant information, and taking into account the review period set, and any recommendations made as a consequence of the Capability Hearing. Information contained in the Performance Improvement Plan must include:

- The specific performance objectives where improvements are required
- Method of Improving Performance (i.e. how will the improvement be made or supported). This will include any identified supporting actions agreed on the part of the line manager.
- Success criteria
- Review dates, including how often and by whom performance will be regularly reviewed within the overall period, as well as the overall target date set by the warning (where a warning has been issued as part of the formal capability procedure)

7.2 Sustaining levels of performance

Review periods set for improving performance within the formal procedure can vary, dependent on the level of poor performance and the amount of support required to assist an employee to make the required improvements. They should be as short as possible, but always give the opportunity for the employee to improve.

If there is a live warning on file relating to capability, then there is no option for managers to deal with new instances of poor performance informally.

If performance reaches the required standard within the review period as outlined in the Performance Improvement Plan, and the employee maintains this standard within the warning period, the line manager will take no further formal capability action and normal monitoring of performance resumes.

If the employee's performance deteriorates during the review period despite further support having been provided, the manager may move to Stage 3 of the procedure without waiting for the review period to end.

If the employee's performance has not improved to the required level by the end of the review period, or this required level hasn't been sustained throughout the warning period, managers will move to Stage 2 of the procedure.

7.3 Stage 1

Where an employee remains unable to meet the required standards of performance following the informal stage of the capability procedure, they will be invited in writing to a Capability Hearing with their manager (who will be accompanied by an HR representative) to discuss the manager's areas of concern and to hear the employee's views.

At the hearing, the manager will review with the employee the previous targets and actions from the informal procedure, and explain the reasons why they believe the employee's performance is not at an acceptable level.

The employee will be asked to explain their own view of their performance, including any mitigating circumstances which should be taken into account.

After this meeting the manager, in consultation with the HR Rep, will consider all the information available, and will decide what action is appropriate. The outcomes could include:

- No action, where performance is considered to be satisfactory
- To give further time (under the informal procedure) for the employee to make improvements if the necessary support had not previously been provided, or there are mitigating circumstances affecting performance levels
- To give the employee a first written warning which will stay on file for a period of one year (in line with stage 7.8 of the College's Disciplinary Procedure):

If a written warning is being given, the manager will write to the employee confirming:

- The areas where the employee's performance is still below the required standard
- Any actions that have been taken to date to try and address the issues
- The proposed actions needed to secure a satisfactory level of performance, including the need to develop a new or revised Performance Improvement Plan
- A statement of what is considered to be a satisfactory level of performance and the time-scale for the improvement. (This will depend on the circumstances of each case but should normally be no shorter than one week and no longer than 6 months)
- Unless the performance issues are resolved within the review period outlined above, and maintained during the warning period, the matter will be considered under Stage 2 of the capability procedure; and this warning will remain active for a period of 12 months
- Confirmation that if performance standards deteriorate during the warning period, the matter may be considered under stage 3 of the capability procedure
- The employee's right of appeal (in line with section 9 of the College's Disciplinary Procedure)

7.4 Stage 2.

If there is a failure to improve after the review period identified in Section 7.3 above then the employee will be invited to a Stage 2 Capability Hearing.

Prior to the hearing the panel-appointed manager will gather and review all the relevant information, including reports from the line manager, a copy of the Performance Improvement Plan, any other relevant documents and examples of work undertaken by the employee. The employee will also be given a copy of all the information collected

At the hearing, the panel-appointed manager will expect the employee to provide a written and/or oral response to the statement of alleged unsatisfactory performance and any relevant new information. The panel will consider the case and the evidence given at the hearing and decide on one of the following actions:-

~~— consider whether redeployment could be considered within the College. Any redeployed post does not have to be on the same scale. If this is possible, an offer will be made in writing, explaining why it is being made and setting out the main terms of the redeployment i.e. salary, hours of work, holiday entitlement, status, line~~

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~~manager and effect on pension rights. Also the consequences of refusing it will be outlined. The employee will be given reasonable time to consider the offer and be advised to discuss it with his/her representative.~~

- Extend stage 1 of the capability procedure for a further defined period where they feel that the employee has not had sufficient opportunity to improve, accompanied by relevant training or support if necessary to enable the employee to reach and maintain the required standards, or
- Give a final written warning to the employee (in line with stage 7.10 of the College's Disciplinary Procedure);, providing clear objectives for the employee to meet in order to reach and maintain the required standards of the role.
- ~~consider whether redeployment could be considered within the College. Any redeployed post does not have to be on the same scale. If this is possible, an offer will be made in writing, explaining why it is being made and setting out the main terms of the redeployment i.e. salary, hours of work, holiday entitlement, status, line manager and effect on pension rights. Also the consequences of refusing it will be outlined. The employee will be given reasonable time to consider the offer and be advised to discuss it with his/her representative.~~
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If a final written warning is being given, the manager will write to the employee confirming:

- The nature of the unsatisfactory performance

That the employee is now under a final written warning which will be active for 18 months

- The consequences of a failure to improve sufficiently to meet the full requirements of the post within the prescribed timescales, and maintain the required standard of performance throughout the warning period (i.e. to move to Stage 3 of the procedure, which could result in dismissal)
- The period of time given for improvement and the improvements/standards expected (normally no shorter than one week and no longer than 3 months)
- Any additional training and support to be provided, with relevant timescales
- The frequency of reviews of progress
- The employee's right to appeal (in line with section 9 of the College's Disciplinary Procedure)

If a final written warning is not being given but instead Stage 1 of the procedure is to be extended, then the letter will confirm this, but also the consequences of a failure to improve sufficiently to meet the full requirements of the post within the prescribed timescales (i.e. a further Capability Hearing under Stage 2 of the procedure).

7.5 Stage 3

If the employee's performance has deteriorated within the warning period given in Stage 1 or 2 of the capability procedure, or following a final written warning given in Stage 2, an employee's performance remains unsatisfactory following the review period

The employee will be invited to a Stage 3 Capability Hearing. Prior to the hearing the panel will gather and review all the relevant information, including reports from the line manager, a copy of the Performance Improvement Plan, any other relevant documents and examples of work undertaken by the employee. The employee will also be given a copy of all the information collected

At the hearing, the panel will expect the employee to provide a written and/or oral response to the statement of alleged unsatisfactory performance and any relevant new information. The panel will consider the case and the evidence given at the hearing and decide on one of the following actions:-

- To recommend that the employee be given further chance to improve, if it is believed that there has been insufficient time or support provided to make the required improvements within the timescale given, extending the time limit given in the final written warning from Stage 2 by no longer than 3 months
- To again consider whether redeployment could be a viable option within the College
- To dismiss the employee on grounds of capability (in line with stage 7.10 of the College's Disciplinary Procedure) where sufficient support and time has been given, but the employee has failed to make the required improvements;

If the employee is to be given more time to improve, the letter will confirm:-

- The nature of the unsatisfactory performance
- The additional period of time given for improvement and the improvements/standards expected
- That the warning period given in the final written warning has been extended and the date to which/period for which it has been extended
- The training and support to be provided
- The frequency of reviews of progress
- The consequences of a failure to improve sufficiently to meet the full requirements of the post within the prescribed timescales (i.e. potential dismissal).

If a decision is made to dismiss the employee, then the letter will confirm:

- The nature of the unsatisfactory performance
- The process followed before reaching this stage
- The fact that the employee is to be dismissed, outlining the relevant notice period and related contractual matters
- The employee's right to appeal.

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8. Appeals

Employees have the right to appeal against any formal action taken against them under the Performance & Capability Policy.

The appeal processes are outlined in section 9 of the College's [Disciplinary Procedure](#)