

# Department of Health & Social Care

## CAPABILITY PROCEDURE

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## **1. Introduction**

**1.1** The following procedures apply to all staff employed in the Department of Health and Social Care with the exception of the following:

- staff employed under terms & conditions set out by the Whitley Council for the Isle of Man Public Service (Manual Workers)
- Civil Servants
- Medical and Dental Staff who have separate arrangements.

**1.2** The DHSC recognises the need for a procedure to help and encourage all employees to achieve and maintain effective work standards.

**1.3** Capability relates to the skills, aptitudes, mental or physical health of an employee and should not be confused with the Disciplinary Procedure which deals with an employee's conduct. The capability procedure should be applied when a problem arises concerning an employee's work performance or the ability of an employee to carry out the duties for which he/she is employed. The objectives of these procedures are as follows:

- to bring about improvement to meet the required standards
- to encourage a fair, consistent and constructive approach to the problem
- to ensure issues are dealt with efficiently and that clear outcomes are identified at all stages
- to recognise that whilst every effort will be made to help improvement within agreed time limits, failure to meet standards may result in disciplinary action

## **2. Purpose**

**2.1** The purpose of this policy is to:

- assist and encourage all employees to achieve and maintain effective standards of job performance
- provide managers with a framework and guidance to improve the performance of employees
- address unsatisfactory performance
- ensure consistent and fair treatment for all employees who experience difficulties in performing the duties required of the post satisfactorily or attaining the standards required.

## **3. Management Responsibilities**

**3.1** Managers have a responsibility to ensure:

- new appointees have been properly assessed against the person specification for the job
- the employee is given proper induction with regard to the organisation, Department/Directorate and the job itself
- the employee receives initial and ongoing job training and that their training needs are re-assessed following any job changes
- the appropriateness of job content applicable to the grade
- the expectation of work performance is realistic
- the volume of work is reasonable
- adequate advice, supervision and support is available
- to maintain a complete, written record of all discussions and actions throughout the capability process both informal and formal giving a copy to the employee

#### **4. Unsatisfactory Work Performance**

##### **4.1** Unsatisfactory work performance may be due to the following:

- lack of aptitude skill or experience
- re-organisation or re-definition of role
- poor overall organization of work
- changes in the nature and allocation of work
- changes in workload
- absence of facilities crucial to the employees performance
- personal problems
- health problems (e.g. stress)
- disability
- bullying/harassment at work (refer to Bullying & Harassment Policy)

This list is neither exclusive or exhaustive but is provided as a guide to Managers.

## **5. Addressing Unsatisfactory Work Performance**

- 5.1** The employee has the right to be accompanied by a trade union representative or colleague throughout the formal stages of this procedure, and also at the informal stage if appropriate. A member of the Office of Human Resources may also be present to clarify issues if necessary.
- 5.2** Continuous monitoring and assessment of the employee's performance against the requirements of each post must be undertaken by the line manager. Where work performance problems arise they should generally be dealt with through informal discussions.
- 5.3** Every effort should be made by both the manager and employee to resolve issues of poor work performance at an early informal stage. However, where sustained improvement in performance does not occur, the formal stages of this procedure should be invoked.
- 5.4** It may be necessary to temporarily redeploy an employee, where serious or unsafe performance becomes apparent, prior to finding a permanent solution. The length of the redeployment should be kept to a minimum wherever possible and the employee will continue to receive their existing remuneration for this period of time.

## **6. Procedure**

### **6.1 Stage 1**

A thorough review of the employees work performance must be conducted. This should be a positive and constructive discussion to provide the employee with an opportunity to express their opinion and for the line manager to consider factors which may be contributing to the poor performance.

**6.2** The purpose of this discussion is to address the following points:

- to confirm the standards of work expected
- to agree which areas of work the employee needs to improve
- to assess whether additional training, re-training is necessary
- to assess whether if adaptations to the workplace are required
- to agree an action plan

**6.3** The action plan must detail the improvements required, the targets and timescales.

Continuous monitoring and assessment should be negotiated over a determined period of time (depending on the required improvement) which will not normally be more than 3 months following the discussion i.e. unless the review period is triggered by an event rather than a timescale.

#### **6.4 Stage 2 (Formal)**

Following the informal stage and if the work performance remains unsatisfactory a formal review meeting should take place no later than 3 months after the informal stage. The line manager should notify the employee in writing that a formal interview will be held. The letter should state details of the employee's capability issues and make reference to the capability procedure. The letter should also advise of the right to be accompanied by a recognised trade union representative or colleague (see appendix 1)

The purpose of the review meeting is to discuss and agree the next course of action.

The next course of action may include:

- voluntary redeployment to a more suitable post (not necessarily at equivalent grade) within the department
- seeking medical advice/treatment from the Occupational Health Department who may consult with other medical professionals
- more intensive counseling/advice if the reasons for the problem or the solution are not clear
- consideration of redeployment outside of the department

#### **6.5 Stage 3**

If after the agreed period has elapsed and despite encouragement and assistance, sufficient improvement is considered unlikely, an appropriate senior manager will hold a capability hearing. The employee must be notified in writing that he/she is required to attend a capability hearing and the letter should specify the areas of work which are still unsatisfactory. (see appendix 2) Additionally, the letter should state that the situation appears to justify termination on the grounds of lack of capability and the employee should be given an opportunity to respond. The letter should advise of the right to be accompanied by a trade union representative or colleague.

As a consequence of the capability hearing, the senior manager having considered any explanation of the failure to improve should take one of the following courses of action:-

- allow time for further improvement

- redeployment, if necessary to a different grade
- dismissal with notice or pay in lieu of notice

### **Further Improvement**

If the senior manager is of the view that further time to improve should be allowed, he should set out in writing where the improvement is required, the standard expected including the time limit for meeting this standard and the consequences of failure to improve which will be one of the following:

### **Redeployment**

If suitable, alternative employment can be found, which may be at a lower grade, then the offer should be made in writing, explaining why it is being made and the possible consequences of refusing it, i.e. dismissal. The employee should be given sufficient time to consider the offer and to discuss it with their trade union representative.

### **Dismissal**

The final decision to dismiss must be notified to the employee in writing and must state the right of appeal. The appeal process is that which is defined for the disciplinary process which states the appeal must be lodged in writing within 7 working days.

***DATE***

Dear .....

**Stage 2 Formal Interview**

A meeting has been arranged on (*date*) at (*time*) in (*location*) to discuss the capability process with regard to your (*state reasons*). In attendance at the meeting will be (*name people*)

Should you wish, you have the option of being accompanied at this interview by your trade union representative or colleague.

Yours sincerely,

.....  
.....

***DATE***

Dear .....

**Stage 3 Capability Hearing**

A meeting has been arranged on (*date*) at (*time*) in (*location*) to discuss the capability process with regard to your (*state reasons*). In attendance at the meeting will be (*name people*)

Should you wish, you have the option of being accompanied at this interview by your trade union representative or colleague.

Yours sincerely,

.....  
.....



# CAPABILITY THE KEY STAGES

