

Proposed Amendment to the PSC CS Regulations 2015 and Manual and Craft MOA 2015

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| Ref: | Amendment PSC 15-169 |
| Re: | PSC Harmonised Capability Procedure |
| Proposal: | Change to Procedural Matters in Section 11 & minor corrections in Sections 7 and 9. |
| Existing Regulation: | <p>...</p> <p>7. STAGE 1</p> <p>7.1 When a manager believes that an employee's performance and/or attendance falls below the standards expected or they are experiencing difficulties with certain areas of work, the manager should invite the employee to a formal meeting to have a discussion that will consider the factors which may be contributing to the performance and/or attendance issues. If the reason for capability is attendance then this process can still be commenced if the employee is absent from work and they fail to engage with the process, but this should not be undertaken if the employee is medically certified as unable to engage with the process. Particular care needs to be taken if the reason for Relates to a mental or physical condition that may be defined as a disability as set out in the Equality Act 2017. You should consult with OHR for advice as to whether the employee may meet the definition of disability.</p> <p>...</p> <p>9.6 Following the Capability Hearing, the hearing panel, can take one of the following courses of action:-</p> <p>a) <u>A decision to take no further action.</u></p> <p>b) <u>Allow further time for improvement (with a final warning).</u> If the panel is of the view that further time is required, it should notify the employee of the performance/attendance improvements still required, including targets and timescales. If the standard(s) are met during this extended time period, no further action should be taken, apart from monitoring, to ensure such improvements are sustained for a no more than 6 months. If the standards are not met or the improvements are not sustained for the 6 months the procedure may re-commence at Stage 3.</p> <p>...</p> <p>11.4 Sometimes an employee may raise a grievance or a complaint connected to the case during the course of a</p> |

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| | <p>Capability Procedure. In these circumstances the case should continue in parallel Grievance or Fairness at Work procedures. If the Grievance or Fairness at Work complaint is upheld then the capability process may take this into consideration. In some cases the grievance may recommend that the capability process is not progressed and where the Grievance /Fairness at Work Capability are running concurrently, any dismissal should not occur before any outstanding grievance or complaint connected to the capability is concluded. This only applies where there is a direct link between the capability and the grievance/complaint.</p> <p>...</p> |
| <p>Proposed Amendment:</p> | <p>...</p> <p>7.STAGE 1</p> <p>7.1 When a manager believes that an employee’s performance and/or attendance falls below the standards expected or they are experiencing difficulties with certain areas of work, the manager should invite the employee to a formal meeting to have a discussion that will consider the factors which may be contributing to the performance and/or attendance issues. If the reason for capability is attendance then this process can still be commenced if the employee is absent from work and they fail to engage with the process, but this should not be undertaken if the employee is medically certified as unable to engage with the process. Particular care needs to be taken if the reason for absence relates to a mental or physical condition that may be defined as a disability as set out in the Equality Act 2017. You should consult with OHR for advice as to whether the employee may meet the definition of disability.</p> <p>...</p> <p>9.6 Following the Capability Hearing, the hearing panel, can take one of the following courses of action:-</p> <p>a) <u>A decision to take no further action.</u></p> <p>b) <u>Allow further time for improvement (with a final warning).</u> If the panel is of the view that further time is required, it should notify the employee of the performance/attendance improvements still required, including targets and timescales. If the standard(s) are met during this extended time period, no further action should be taken, apart from monitoring, to ensure such improvements are sustained for a period of no more than 6 months. If the standards are not met or the improvements are not sustained for the 6 months the procedure may re-commence at Stage 3.</p> <p>...</p> |

11.4 Sometimes an employee may raise a grievance, or a complaint ~~connected to the case~~ during the course of ~~the~~ Capability Procedure. In these circumstances the ~~ease~~ capability process should continue in parallel with the Grievance or Fairness at Work procedures. ~~If the Grievance or Fairness at Work complaint is upheld then the capability process may take this into consideration. In some cases the grievance may recommend that the capability process is not progressed and w~~ Where the Grievance /Fairness at Work and Capability are running concurrently, ~~each process should be dealt with as quickly as possible to avoid undue delay. In exceptional circumstances and where the Capability Hearing is at Stage 3, consideration should be given to putting the Capability Hearing on hold, where the outcome could lead to dismissal, whilst the complaint is dealt with separately. Guidance must be sought from OHR, by the Chair of the panel before any action is taken in respect of this and any decision to defer the hearing should be documented. This may be where the nature of the complaint is proven could have a direct impact on the capability matter and where the complaint cannot be heard during the Capability Hearing. any dismissal should not occur before any outstanding grievance or complaint connected to the capability is concluded. This only applies where there is a direct link between the capability and the grievance/complaint.~~

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Agreed and authorised by:

Signed on behalf of
Prospect



Date: 14-9-2023

Signed on behalf of Unite
the Union



Date: 14/9/2023

Signed on behalf of the
Commission



Date: 14/9/2023

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For Office of Human Resources Use Only

Instruction for implementation:

Passed to Matthew Lower

By Alex Quine

Date 22/09/2023

An IOM Government All Staff Notice prior to implementation ~~is~~*/is not* required (*please delete as appropriate)

pp Signed [Redacted]
Head of Industrial Relations and Policy Section

Date Regs updated:

Website ✓

Date 25/09/2023

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| Previous Civil Service Regulation amendment reference (if any) : | N/A |
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Notes/Special Instructions:
E.g. Communication to Pay Sections required