

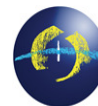
CAPABILITY PROCEDURE - ILL HEALTH

Introduction

1. **Flexibility:** The Trust will follow a fair procedure in the event that action under the capability procedure is necessary. There may be occasions when the Trust considers it appropriate to change or omit parts of the procedure.
2. **Amendments:** If the Trust amends the procedure from time to time, you will be given advance notice of the amendments.
3. **Conduct:** This procedure does not apply to misconduct or incompetence, incapability or other poor performance which is attributable to misconduct. The procedure does not apply to poor performance issues which are not attributable to ill health.
4. This Capability Procedure - Ill Health does not form part of any employee's contract of employment and is entirely non-contractual. It may be amended, withdrawn, suspended or departed from at the discretion of the Trust.

The procedure

5. **Investigation:** As a first step any capability issue due to ill health will be investigated. If, after investigating the matter, it appears that there are no reasonable grounds for concern, you will be informed of this in writing and, if relevant, allowed to return to work as normal or referred to Occupational Health for an assessment.
6. **Next stage:** If it is considered necessary to take formal action in respect of issues relating to your performance a Capability Meeting will be arranged.
7. **Information:** You will be given reasonable advance notice of the timing and location of the Capability Meeting and will be told, in writing, the purpose of it and the basis of the concern. You will be provided with a copy of any documents which may be referred to at the Capability Meeting and invited to submit any relevant documents. You will be given a reasonable opportunity to consider your response to this information.
8. **Right to be accompanied:** You may be accompanied to the Capability Meeting by a colleague or trade union official.
9. **The Capability Meeting:** A member of your College SMT will conduct the Capability Meeting and the Co-ordinator of your area of work may be asked to attend. You must take all reasonable steps to attend the Capability Meeting. The meeting will address your performance and discuss any measures your state of health and how this may be affecting your work. You or the person accompanying you will be able to ask questions and put forward your point of view. You may request an adjournment if you need to consult the person accompanying you. Whenever possible the Trust will offer reasonable assistance, support and time to help your performance improve. The following will be considered and discussed with you at the meeting:-
 - concerns relating to your performance;
 - your response;



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- the respects in which your performance has fallen short of the required standards;
 - suggestions as to any appropriate support/training/other measures which could improve your performance;
 - the possible consequences of continuing poor performance due to ill health.

Action

10. **Outcomes:** Following the Capability Meeting, the following steps may be taken:-
 - **If appropriate, a plan to facilitate a return to work** - this may include the likely timescales and consideration of the duties which may be suitable upon return to work. It will also include details of any support or assistance which can be offered in order to facilitate a return to work. Review dates may be set up in order to monitor the return to work.
 - **If appropriate, suitable redeployment and reasonable adjustments** - this does not mean that a special post will be created but that suitable redeployment may be offered if available and adjustments that are reasonable will be considered.
 - **Warnings** - if the poor performance due to ill health continues to occur, oral or written warnings may be issued which will be recorded and which will set out details of the poor performance.
 - **Dismissal** - if you fail to improve within the a time scale specified in a final written warning or you have fallen short of the required standards in any other respect, you may be dismissed immediately with notice.
11. **Communication of decision:** You will be notified of the Trust's decision in writing as soon as reasonably practicable. If the concern is upheld, you will be informed of the outcome and your right to appeal the decision.
12. **Currency of warnings:** All oral warnings issued following a Capability Meeting will remain in effect for a period of 12 months from the date of issue unless otherwise advised to you. All written warnings will remain in effect for a period of 24 months from the date of issue unless you are otherwise advised. Copies of such warnings will be placed on your personnel file.

Appeal

13. **Right of appeal:** You have the right to appeal to an Appeal Panel against any decision made following the Capability Meeting if you are dissatisfied with it. You should notify a member of your College SMT in writing within 5 working days of being notified of decision, giving full details of why you wish to appeal.
14. **Appeal procedure:** The Appeal Panel will arrange a review meeting or a fresh capability meeting which will take place as soon as reasonably practicable and you will be informed in advance of its timing and location. You must take all reasonable steps to attend the appeal meeting. There shall be no right to appeal from the decision of the Appeal Panel. The Appeal Panel will be entitled to reach a different conclusion and impose a different outcome (although not greater) than that imposed after the Capability Meeting.
15. **Appeal Panel:** The Appeal Panel shall not include anyone involved in the Capability Meeting and may comprise one or more persons. As far as reasonably practicable,



- the person chairing the Appeal Panel will be someone holding a more senior position than the person chairing the Capability Meeting. You will be informed in writing of the Appeal Panel's decision as soon as reasonably practicable.
16. **Right to be accompanied:** You may be accompanied to the appeal hearing by a colleague or trade union official.
 17. **Employment status:** If an appeal is made against a dismissal decision, that dismissal decision will have immediate effect so that the period of notice began at the date given in the dismissal decision. If having been dismissed you are reinstated on appeal, your continuity of employment will be unaffected.