



1. INTRODUCTION

The Capability Procedure is designed to promote fairness and consistency in the treatment of employees throughout the institution (HE, DSSF, ArtsEd Extra and all those in wider support functions) and to assist ArtsEd to function effectively.

All employees, volunteers and visiting staff have a responsibility to familiarise themselves with this policy.

Each individual's performance is a key factor to the success of ArtsEd and occasionally that performance falls below a level which is acceptable. Where this happens, and where ArtsEd considers that this is a capability and not a disciplinary matter, the capability procedure may be used to try to resolve performance issues.

Although elements of this procedure are similar to those in the Disciplinary procedure, ArtsEd wishes to distinguish between conduct and performance issues:

- Capability is about an employee's ability to do their job. Usually, it's a capability issue if the employee has no control over it, e.g. ill health, disability, lack of training, etc.
- Conduct is about an employee's behaviour at work – something the employee has control over.

ArtsEd will always strive to uphold the principles of, and its obligations under, the Equality Act 2010. In doing so, it will make provision for employees with disabilities and those possessing protected characteristics to ensure fairness and equal treatment. If a member of staff has any concerns in this regard, then they must discuss this with the HR Director, who will seek to mitigate and/or remove the concerns that have been raised so that the processes and procedures outlined in this policy can be implemented with fairness and equal treatment.

This procedure does not constitute contractual terms and conditions. ArtsEd reserves the right to amend any provision of this procedure subsequent to appropriate consultation.

2. PERFORMANCE ISSUES

Where this procedure is used in regard to performance issues, the aim is to encourage staff to perform to the standard required by ArtsEd and not to impose disciplinary sanctions. This is to give the employee the chance to improve and stop any further problems arising. However, you must be aware that a continuing failure to achieve the required work standards may have serious consequences up to and including dismissal.

Examples of issues to be addressed using this procedure (and this is not an exhaustive list) include:

- Generally or specifically failing to meet the technical or practical (including personal and attitudinal) requirements of your job;
- Failing to reach targets set by ArtsEd;
- Complaints by colleagues or other employees, students or parents that your performance has been unacceptable.

A performance issue may be raised at any time. The manner in which the issue is addressed (formally or informally) will usually depend upon how serious it is, though factors such as frequency of occurrence will also be considered.

Generally, where the issue is minor in nature, it will be dealt with by way of informal discussions which will not be documented. It might also be dealt with by way of training if that is appropriate and if you identify training needs of your own you should raise them with your Line Manager.

Where a performance issue is more serious, or where ArtsEd believes it is otherwise appropriate, formal action will be taken in line with the following procedure:

Step 1 – Informal Stage: Performance Improvement Plan (PIP)

At this initial stage of the Capability Policy, the employee will be informed that their performance must improve within a set period—typically between 4 to 6 weeks—under a structured Performance Improvement Plan (PIP). This plan outlines clear expectations, support measures, and specific objectives the employee must meet within the timeframe. During Step 1, the process remains informal, and the employee is not entitled to be accompanied by a trade union representative or colleague. However, the outcome of this stage may influence whether the matter progresses to a formal capability review (Step 2), which may involve further action including progressing to Step 3 if necessary after Step 2 has been explored.

Step 2: a first written confirmation of either a new instance of unacceptable performance or a failure to improve as previously notified - *a union representative or a work colleague can attend this and future meetings;*

Step 3: following a new instance of unacceptable performance or a failure to improve as required by earlier steps, a final written warning that unless there is improvement or if there is further unacceptable performance dismissal will follow - *a union representative or a work colleague can attend this and future meetings;*

Step 4: dismissal, if the required performance standards have not been achieved. Alternatives to dismissal may be taken into consideration such as demotion or a transfer of your duties - *a union representative or a work colleague can attend this and future meetings.*

Where there is a single serious instance of unacceptable performance ArtsEd may elect to start the process at Step 3 or 4, as appropriate.

3. CAPABILITY ISSUES – ILL HEALTH/DISABILITY

If an employee becomes unable to do their job due to an illness, injury or disability and adjustments or support either cannot help or options have been exhausted, ArtsEd will carry out an investigation to establish the current medical position from the school's occupational health adviser in the first instance. Previous medical reports will also be taken into consideration. Should the medical evidence indicate that there is little or no prospect of a satisfactory return to work within the reasonably near future, formal action may be taken in line with this policy.

4. PROCEDURE

i. Step 1 – Statement of Grounds of Action and invitation to meeting

If action is taken under this procedure you will receive a letter setting out the issues and inviting you to attend a Capability Meeting to discuss the matter. The meeting will generally be chaired by your Line Manager and/or a member of the HR team, and you will receive reasonable notice of the meeting. If it is not appropriate for your Line Manager to chair the meeting we will notify you of an alternative.

The letter will also notify you of the possible consequences as a result of the meeting. If at the meeting ArtsEd intends to refer to and rely upon evidence relevant to the matter, you will be provided with copies of such evidence in advance of the meeting.

ii. Step 2 – Capability Meeting

You must take all reasonable steps to attend the meeting. At the meeting you will be given the opportunity to explain your case and refer to any evidence and/or any mitigating factors upon which you intend to rely.

iii. Step 3 – Appeal

If you wish to appeal against any action taken under this procedure, you must do so in writing to the HR Director within five working days of receiving written notice of the decision. In doing so, you must also set out in writing the reasons for your appeal.

After receiving your written appeal, you will be invited to attend an appeal meeting. You will be given at least three working days' notice of this meeting where possible and must take all reasonable steps to attend.

All evidence which was provided for the Capability Meeting will be provided for the appeal, as well as notes of the Capability Meeting, which will be provided to you in advance of the appeal meeting.

Where appropriate, it may be necessary to adjourn the appeal meeting in order to undertake further investigation or consideration, in which case the meeting will be reconvened within a reasonable period of time.

Following the appeal meeting you will be informed in writing of the decision. This decision will be final.

5. RIGHT TO BE ACCOMPANIED

You may, if you wish, be accompanied by a colleague or trade union representative at any meeting during this procedure **excluding Step 1 as it is at the informal stage of the process.**

6. LONG-TERM SICKNESS ABSENCE

Where an employee's underperformance is as a result of long-term sickness absence then ArtsEd will always seek medical advice prior to making a decision about an employee's ongoing employment. ArtsEd will also consider whether there are any reasonable adjustments which can be made to assist the employee to perform their role. In cases where ArtsEd has concerns about the employee's long-term ability to perform their job as a result of health grounds the School will normally move to dismissal stage without prior warnings.

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