



Capability Policy

Capability Policy – Lincoln College Procedure

The College recognises that during employment with the College and employees capability to carry out their duties may deteriorate. This can be for a number of reasons, the most common ones being that either the job changes over a period of time and the employee fails to keep pace with the changes, or the employee changes (most commonly because of health reasons) and can no longer cope with the work.

This procedure is designed to support staff and managers in dealing with problems regarding performance which may arise from time to time and which leads to the employee not fulfilling the expected requirements of the role or could arise from the employee's inability to fully perform the role. It aims to:

- ensure that any concerns about an employee's ability to achieve acceptable standards of work are addressed effectively through a clear and supportive procedure;
- ensure that supervision, training, counselling and support measures are deployed appropriately to help employees to achieve acceptable standards of work, and
- provide a clear procedure for the termination of employment in cases where it does not prove possible to secure a satisfactory and acceptable level of performance.

Where poor performance is due to a failure to maintain adequate standards of behaviour rather than a lack of skills or application, it should be dealt with through the disciplinary procedure. Capability is defined for the purposes of this procedure as all matters related to an employee's skills, aptitudes or competences and their application.

Where poor performance is linked partly or wholly to a qualifying disability under the Equality Act, the requirements of that Act for reasonable adjustments to the workplace or the job will be taken into account. Where poor performance is linked partly or wholly to medical problems, the University's procedures for dealing with absence from work due to ill-health should be used as appropriate.

This procedure applies to all administrative and domestic employees of the College.

Setting performance standards:

Employees have a contractual responsibility to achieve an acceptable level of performance at

work and will be supported and encouraged to reach that level. Managers should set realistic and achievable standards consistent with the employee's

contract and job description. These should ensure that employees understand what those standards imply in terms of the quality and quantity of work and the time and costs associated with the expected outputs. Any shortfalls in performance should be discussed promptly with the employee concerned and the causes of the shortfall identified. Consideration should be given to whether it is due to inadequate training, supervision or guidance and if appropriate measures should be taken to provide additional support.

Annual Review

The College has implemented an Annual Review process for Administrative and Domestic members of staff. New employees should be given appropriate targets during their induction and should be given support throughout their probationary period so that managers and employees alike can be satisfied that adequate progress is being made towards the expected performance levels. The Annual Review process is not an appropriate meeting to bring up performance concerns for the first time, however, it is wholly appropriate to refer to on-going performance issues during such a meeting although the Annual Review is not a performance management meeting.

Regular one to one meetings

Line managers should meet on a regular basis with employees to discuss performance, current work and current work issues, plus any other relevant topics. Poor performance should be raised at these meetings or at an earlier meeting if a one to one is not imminent. How regular a one to one meeting is held is for the line manager and member of staff to decide but where there are performance concerns the regularity of these meetings is likely to increase for the individual concerned.

Principles of the capability procedure

Problems of poor performance should be dealt with promptly. At each point in the procedure, the employee will be given a full explanation of the perceived weaknesses or deficiencies in performance.

An employee has the right to be accompanied by a fellow employee, at each stage of the formal procedure.

Documentation relating to the use of this procedure will be treated as confidential and will only be made available to those directly involved.

In cases where capability is affected by ill health and the employee does not wish to take sick leave, they should advise their line manager of the health problem. The line manager should consider whether it is possible to adjust the employee's workload and/or working conditions in the light of these problems.

Throughout the procedure, the work of the employee will be considered in the light of any adjustments that have been agreed by their manager.

If an employee is unable by reason of ill health to perform their duties satisfactorily, allowing for any adjustments that may have been agreed with their manager, they may be required to take sick leave. Presenting themselves for work commits the employee to performing their duties to an acceptable standard.

Personal Circumstances

Personal circumstances may arise which do not prevent an employee from attending for work but which prevent an employee from carrying out their normal duties (e.g. a lack of dexterity or general ill health). If such a situation arises, the College will normally need to have details of the employee's medical diagnosis and prognosis so that the College has the benefit of expert advice. Under normal circumstances this can be most easily obtained by asking the employee's doctor for a medical report.

The employee's permission is needed before the College can obtain such a report and the College will expect the employee to co-operate in this matter should the need arise. When the College has obtained as much information as possible regarding the employee's condition and after consultation with the employee, a decision will be made about the employee's future employment with the College in their current role or, where circumstances permit, in a more suitable role.

There may also be personal circumstances which prevent an employee from attending work, either for a prolonged period or periods or for frequent short periods. Under these circumstances the College will need to know when they can expect the employee's attendance record to reach an acceptable level and again this can usually be most easily obtained by asking the employee's doctor for a medical report. When the College has obtained as much information as possible regarding the employee's condition and after consultation with the employee, a decision will be made about the employee's future employment with the College in their current role or, where circumstances permit, in a more suitable role.

Dealing informally with issues of capability

When a line manager has concerns about the performance of an employee, they should consult with the HR Manager about the most appropriate means of dealing with the perceived problem.

The line manager, in conjunction with the HR Manager will then:

- let the employee know verbally the nature of the perceived problems and the date and time of a meeting to discuss how they should be addressed and this should be confirmed in writing normally within 10 working days;
- at that meeting, explain why the expected standards of performance do not appear to have been met, and identify occasions when deficiencies have occurred and define the expected standard of performance;
- endeavour to establish the reasons for the unsatisfactory level of performance, taking account of all the factors which might have had an effect on the employee's performance, including the volume of work, the available resources, training, personal matters, ill health and changes in management or working practices;
- the employee's views and perception of all the matters involved should be taken fully into account, and any additional or alternative evidence considered;

At this point the meeting should end whilst the line manager considers the mitigating evidence presented. If the line manager still has concerns after considering the mitigating evidence then the meeting should be reconvened and an action plan set and seek to establish an agreed programme to address the problems, which may involve additional supervisory support, further training, additional resources, organisational changes, changes to workload, or where a personal issue is identified, counselling or a period of special leave may be provided. A clear monitoring and feedback review procedure must also be agreed.

Before agreeing a programme of action, the employee may wish to consult with a colleague.

A programme of remedial action should set targets and dates for meeting objectives a competent holder of the post could reasonably be expected to meet. For most employees, targets of between one week and three months duration will be the norm. The consequences of not meeting the required standards within these time-scales should be outlined. The programme will also include details of when monitoring meetings will be held and how standards will be re-assessed. The programme will normally be a written document, a copy of which is to be retained by the manager, the HR Manager and the employee.

If agreement cannot be reached, the line manager and HR Manager may then impose a programme of action or refer the matter immediately to the formal stages of the procedure.

If the necessary improvement in performance is achieved within the set time-scale, no further action will be necessary and all copies of the documentation involved will be retained on the employee's personal file for the following twelve months. At the end of this period they will be disregarded for capability purposes.

If performance continues to be unsatisfactory, the manager should initiate the formal procedure set out below, in consultation with Bursar/Domestic Operations Manager. In cases where the manager is confident that an employee's performance, whilst not completely satisfactory, will reach the required level within a reasonable time period, no further action need be taken, but the line manager will continue to informally monitor the situation.

Formal capability procedure

The line manager in conjunction with the HR Manager will verbally inform the employee as to the aspects of their performance that are considered to be unsatisfactory, and will arrange a meeting to discuss how they should be addressed and this will be followed up in writing, normally within 10 working days. Reasonable notice of the meeting will be given, and the employee may be accompanied by a fellow employee. The employee may ask for this meeting to be postponed if the person who they wish to accompany them is not available on the date proposed.

At the meeting, the manager will:

- remind the employee that this is a formal step in the College's capability procedure;
- indicate how the expected performance standards are not being met and what the expected performance standard is;
- seek to establish the causes for the continued unsatisfactory performance and
- invite the employee to put forward evidence and explanation in their support.

The manager may decide to adjourn to gather further information. In such cases, subsequent meetings will follow the procedure as above:

- the areas in which performance has been deficient;
- specific individual targets or standards that a competent holder of the post could reasonably be expected to meet and the dates by which they should be achieved;
- monitoring and review arrangements;
- any changes in working arrangements and practices designed to support the achievement of the required standard of performance;
- any further training or personal development measures that will be undertaken;
- any further steps and possible sanctions that may result from a failure to meet the required standards.

The details of the discussion and any outcome should be covered in a letter to the employee. Subsequent performance will be monitored as set out in the letter, and periodically reviewed in meetings between the employee and the manager. The

manager will keep notes of these meetings detailing the assessment of progress and any further agreed actions. A copy of these notes will be forwarded to the employee.

If performance improves within the agreed time-scale, no further action is necessary and all copies of the documentation will be retained on the employee's personnel file the following twelve months. At the end of this period they will be disregarded for capability purposes.

Formal capability review

If an employee's performance over the agreed time-scale continues to fall short of the required standard, the line manager, in consultation with the HR Manager, will refer the case to a formal Capability Review Hearing. The hearing will be chaired by either the Bursar or Domestic Bursar (if either of them has been involved in the case at an earlier stage they will not be eligible to chair the review hearing) and will include the line manager, and a note taker (normally the HR Manager).

The HR Manager will inform the employee in writing that the case has been referred to a Review Hearing. Other details to include:

- date, time and venue of the hearing, giving reasonable notice;
- names and job title of the hearing members and
- the right to be accompanied by a fellow employee

The letter of notification will also identify the areas in which the line manager considers that performance continues to fall short of the expected standards and the supporting evidence and of the possible outcomes from the Review Hearing including compulsory transfer to another post and dismissal.

The Review Hearing will:

- take evidence from the manager and the employee concerning the deficiencies in performance and the steps that have been taken to secure improvements;
- review the outcomes of any training that has been undertaken to secure an improvement in performance;
- review the written documentation from the intermediate monitoring meetings; call for any other evidence which they feel is necessary to establish whether the employee is failing to meet the reasonable expectations of performance for the post;
- if the failure to meet the expectations of the post may have been influenced by illness or disability the hearing will consider whether all appropriate adjustments have been made and
- the employee and the manager may call witnesses and the chair, the manager

and the employee may all ask questions of these witnesses.

The Chair of the hearing may take one or more of the following courses of action, according to the circumstances of the case:

- take no further action;
- in consultation with the manager they may set further performance targets appropriate to the post and to the deficiencies that have been identified, setting a time period in which the improvement in performance is required. This will normally be between one and three months;
- recommend changes to the working practices, working arrangements and patterns of work for either the individual employee, and/or the department in which he/she is employed. Detail support and training provisions that are available to the employee concerned;
- recommend consideration of the scope for redeployment to a post elsewhere in the College that would be appropriate to the skills and capabilities of the employee.
- recommend dismissal in cases where redeployment is not a realistic option and/or
- in cases where incapability is due to ill-health, require the employee to take sick leave until certified fit to return to work by the Occupational Health Department.

Written Confirmation of the Decision of a Capability Review Hearing

- The Chair of the hearing will inform the employee, in writing, of the decision of a capability review hearing normally within 10 working days of the hearing. The letter will cover:
 - the issues;
 - any conclusion that has been proposed and the reasons for the conclusion;
 - any remedial action required of the employee and the consequences of any recurrence of unsatisfactory capability, including any dates for review, and

- the procedure for exercising the employee's right of appeal.
- Records of formal capability action will be retained on the employees personal file for future reference.

Appeals against decisions

Appeal

The appeal should be made in writing to the individual named in the outcome letter. The employee should clearly state the grounds of appeal, i.e. the basis on which they say that the decision taken was wrong. This should be done within 10 working days after the written notification of the outcome. An appeal meeting will be arranged to take place normally within 10 working days of the submission of the formal appeal, unless an extension to the appeal hearing date has been agreed.

The employee should ensure that they attend the meeting at the specified time. If they are unable to attend because of circumstances beyond their control, they should inform their line manager of this as soon as possible. If they fail to attend without explanation, or if it appears that they have not made sufficient attempts to attend, the hearing may take place in their absence.

The appeal hearing will be conducted by the individual named in the outcome letter. this may be a panel of the Governing Body chaired by the Rector or by an alternate acting on his or her authority. In the case of an appeal panel, the appeal chairperson will be assisted by two Governing Body Fellows appointed by the Chairperson. The appeal panel or individual will consider the grounds that have been put forward and assess whether or not the decision reached was appropriate.

Following the appeal meeting, the employee will be informed of the outcome normally within 10 working days. The outcome of this meeting will be final.

Short Service Staff

The College retains discretion in respect of the capability procedures to take account of your length of service and to vary the procedures accordingly. If you have a short amount of service, you may not be in receipt of any warnings before dismissal but you will retain the right to a hearing and you will have the right to appeal.