



HR POLICIES & PROCEDURES (HR/B03)

CAPABILITY POLICY (Managing Performance)

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1. INTRODUCTION

- 1.1 The South Central Ambulance Service NHS Foundation Trust (“the Trust” or “SCAS”) expects the highest standards of performance from its employees in order that the best possible service is provided. Where an employee’s performance may not meet these standards, this policy and procedure aim to help staff and managers identify and improve unsatisfactory performance and support staff in achieving the required standards.
- 1.2 It recognises that robust recruitment, development, supervision and setting and reviewing clear objectives play a key role in this.
- The standards expected of individuals are set out in job descriptions and person specifications and reinforced with annually-set objectives. Job descriptions and person specifications are matched to national job roles with specific levels of responsibility: thus, those recruited or promoted to a particular pay band are expected to perform to the standard indicated by this.
- 1.3 It should be recognised that, although all possible support and opportunities to improve will be given, the final outcome of a failure to improve, if all stages of the process have been exhausted, is likely to be dismissal. Note, though, that no employee will be dismissed without first being issued with a warning and given an opportunity to improve.
- 1.4 If capability action beyond informal guidance is considered against an accredited staff representative, the manager or HR representative will involve the appropriate full-time officer of the representative’s union, prior to any action being taken.

2. PURPOSE & SCOPE

- 2.1 The Capability Policy is designed to deal with cases where the employee is not capable of carrying out their duties to expected and clearly explained standards. It is intended to:

- Support and encourage staff to achieve these standards.
- Provide a framework within which managers can address any capability issues with staff in a fair and consistent manner
- Limit any negative effect or impact on other employees and operations.

This policy applies to all employees with the exception of doctors directly employed by the Trust, who will be managed under the NHS policy: “Maintaining High Professional Standards in the Modern NHS”, and new employees, who will be managed under the Probationary Policy;

- 2.2 The following circumstances do not fall within the scope of this policy:

- Ill health: this can have a profound effect on performance; however, capability issues due to ill health are dealt with under the Sickness Absence Policy.
- Incidents involving SCAS vehicles must, in the first instance, be reported to the Driving Standards Manager; who will also have a role as a specialist investigator – a decision will be taken during the investigation process as to whether the Capability Policy (or the Discipline and Conduct Policy) will be

invoked; if so, the DSM's investigation will be used as evidence;

- Circumstances which imply that an employee has refused to carry out particular duties to a satisfactory standard and/or deliberately been negligent will be dealt with under the Trust's Discipline & Conduct Policy.
- Trial periods fall within the scope of the Trust's Organisational Change Policy.

3. EQUALITY STATEMENT

- 3.1 The Trust is committed to promoting positive measures that eliminate all forms of unlawful or unfair discrimination on the grounds of age, marriage and civil partnership, disability, race, gender, religion/belief, sexual orientation, gender reassignment and pregnancy/maternity or any other basis not justified by law or relevant to the requirements of the post. The Trust will therefore take every possible step to ensure that this procedure is applied fairly to all employees regardless of these protected characteristics whether full or part-time or employed under a permanent or a fixed-term contract or any other irrelevant factor.
- 3.2 By committing to a policy encouraging equality of opportunity and diversity, the Trust values differences between members of the community and within its existing workforce, and actively seeks to benefit from their differing skills, knowledge, and experiences in order to provide an exemplary healthcare service. The Trust is committed to promoting equality and diversity best practice both within the workforce and in any other area where it has influence.
- 3.3 Where there are barriers to understanding; eg, an employee has difficulty in reading or writing, or where English is not their first language, additional support will be put in place wherever necessary to ensure that the process to be followed is understood and that the employee is not disadvantaged at any stage in the procedure. Further information on the support available can be sought from the HR Department.

4. RIGHT TO BE ACCOMPANIED

- 4.1 At all stages of the formal procedure, employees are entitled to be accompanied by a Staff Side representative or work colleague (not acting in a legal capacity). They are strongly encouraged to use this right; and, if they do, are responsible for arranging it.
- 4.2 An accredited staff representative going through the capability procedure may choose to be accompanied by a full-time union officer at all formal stages.

5. PROFESSIONAL ISSUES

- 5.1 In cases involving professional issues, the appropriate accountable professional manager or advisor must be involved in all formal stages of this policy.
- 5.2 Where there is no suitable professional manager within the structure, the Manager dealing with the case has discretion to appoint an external advisor to advise him/her.

6. OCCUPATIONAL HEALTH

- 6.1 Should there be a need to ascertain an employee's fitness to undertake their

contractual duties and/or suitable alternative duties, or to be taken through this process, they may be referred to Occupational Health.

6.2 The purpose of referral is to

- gain an understanding of any health issues that may exacerbate an employee's inability to undertake their contracted duties
- have clear guidance in managing these and
- to ensure that the Trust is offering the employee all appropriate support.

6.3 Managers must discuss the reason for referral with the employee prior to the referral being made. Occupational Health will send employees a copy of the manager's referral letter prior to their OH appointment.

6.4 Employees need not be absent due to sickness/ill health in order to be referred to Occupational Health.

6.5 In order to determine their level of capability, employees returning to work following an injury will normally be referred to Occupational Health prior to commencement of duties; in particular those staff required to undertake manual handling and/or driving duties. No decision on the employee's suitability to return to such duties will be taken until an Occupational Health assessment has been received and considered.

7. **STAGES OF THE PROCEDURE**

There are four stages to the Capability Procedure – for full details see Appendix 2

- Informal
- Formal Stage 1
- Formal Stage 2
- Formal/Final Stage

8. **APPEALS**

8.1 Employees have one right of appeal at each formal stage of this policy.

8.2 **Appeals against formal reviews**

- Employees wishing to appeal against a formal review letter should give notice of appeal to the line manager of the manager issuing the review.
- Appeals should be lodged, in writing to the named HR representative within 14 days of review meeting. The notice of appeal should clearly outline the grounds for appeal and include any additional supporting information the employee wishes to be considered.

8.3 **Appeals against decisions to reband/redeploy/dismiss**

- Employees appealing against a decision to redeploy or dismiss have a single right of appeal to the Executive Director for that directorate or to an Appeals Committee of the Trust if the manager conducting the disciplinary hearing was

an Executive Director of the Trust.

- Appeals should be lodged, in writing to the Assistant Director of HR (Operations) within 14 days of date of the review meeting. The notice of appeal should clearly outline the grounds for appeal and include any additional supporting information the employee wishes to be considered.

8.4 The appeal panel will be made up as detailed in the Best Practice Guide to Formal Hearings and Appeals.

9. SUSPENSION

9.1 Suspension for a capability issue should be very rare. However, should a single error be committed due to negligence and of which the actual or potential consequences are extremely serious, it may be necessary in order for the matter to be safely investigated.

9.2 A formal review may not be appropriate and summary dismissal action may be taken in such circumstances.

9.3 The procedures for suspension set out in *section 10* of the Discipline and Conduct Policy should be followed.

10. SPECIAL CASES

10.1 If you think you may be dealing with a special case (*see below*), seek advice from the HR department.

- **People with Disabilities**

- The Equality Act makes it unlawful to discriminate against people with disabilities by subjecting them to any unjustifiable detriment.

- Where an employee is unable to achieve the required standard due to a condition recognised under the EA, managers must ensure, when managing performance, that actions are justified and that all reasonable adjustments are considered and made in accordance with the provisions of the Act.

- **Alcohol and Drugs Misuse**

- Where an individual's performance is affected by an alcohol or drug problem, support will be provided in accordance with the Trust's Alcohol and Drugs Policy.

- **Inadequate Performance After Promotion**

- Newly-promoted employees should be offered all appropriate support to enable them to undertake their new duties.

- Employees failing to perform to satisfactory standards following promotion should (if it is still available) be offered their former post or an alternative position as an alternative to dismissal.

11. TIMESCALES AND EXCEPTIONAL CIRCUMSTANCES

- 11.1 There may be specific situations where redeployment would appear to be the most appropriate action to take. In this circumstance, provided it is mutually agreed by all involved, redeployment may be explored at an earlier stage in the process. Redeployment cannot be guaranteed and will depend on a suitable vacancy being available.
- 11.2 It is acknowledged that there may, on occasion, be exceptional circumstances in which employees are unable to comply with the timescales detailed in this policy. In such cases, the employee should notify the HR department as soon as possible in order that their circumstances can be considered sympathetically and an extension may be considered.

12. RECORD-KEEPING & MONITORING

- 12.1 A written record of all decisions taken in accordance with this policy should be retained on the employee's personnel file.
- 12.2 Documentation relating to applicants will be treated with the utmost confidentiality and in accordance to the General Data Protection Regulation (GDPR) (Regulation (EU) 2016/679), the Trust's Lifecycle Policy and the NHS Records Management & Retention schedule.
- 12.3 Employees have the right to access any documentation held on them in accordance with the General Data Protection Regulation (GDPR) (Regulation (EU) 2016/679)
- 12.4 The HR department will implement systems to monitor selection procedures both to obtain the necessary statistical information and to audit the procedural aspects of the capability process. This is necessary to meet statutory requirements and to ensure good employment practice.
- 12.5 Statistical analysis and reports will be provided to the relevant bodies as required and to appropriate internal departments/managers and meetings as required on a regular basis.

13. RELATED POLICIES

- 13.1 Please read this policy in conjunction with the following:
- Discipline and Conduct Policy
 - Sickness Absence Policy
 - Probationary Policy
 - Best Practice Guide to Investigations
 - Best Practice Guide to Formal Hearings & Appeals
 - Grievance Policy

14. REVIEW

- 14.1 This policy will be reviewed on a regular basis – usually every three years. In the case of legislative change it will happen sooner.
- 14.2 The Assistant Director of HR (Operations) will review the effectiveness of this policy annually and provide a report to the Trust Board and Joint Staff Consultative

Committee.

ROLES & RESPONSIBILITIES

1. **Employees** have a responsibility to:

- Be aware of and understand the contents of this policy;
- Attend work and perform their duties to the expected high standard;
- Alert their line manager to any work-related issues affecting their ability to perform;
- Conscientiously undertake all development and learning interventions offered and provided to help them maintain and improve their skills, and knowledge;
- Participate fully in the appraisal process by making sure that they understand what is expected of them and, if they are not clear, always asking, and by preparing in advance for any review meeting;
- If they are members of a professional body, act according to the requirements and responsibilities of it;

2. **Managers** are responsible for:

- Complying with the standards outlined in the Code of Conduct for NHS Managers;
- Applying this policy equally, fairly and consistently to all employees;
- Setting realistic and measurable objectives to clarify and gauge expected standards of performance, clearly explaining those standards to staff and, as necessary, restating them;
- Providing sufficient communication, information and development to employees to enable them to effectively carry out their duties;
- Encouraging open communication and discussion within their teams, so that their staff feel able to raise concerns regarding their workloads without fear of reprisal;
- Striving to minimise cases of poor performance by carrying out effective recruitment, selection, induction and ongoing appraisal and supervision processes;
- Undertaking day-to-day guidance and supervision of staff, in a manner which instils a culture of encouragement and support, identifying areas and opportunities for improvement at an early stage;
- Dealing quickly and effectively with any signs that an employee is struggling to achieve the standards set them; clearly explaining how they will be helped and supported but also the consequences of a failure to improve within a timescale;
- Seeking the advice of their HR representative at an early stage when dealing

with the capability process;

- Ensuring arrangements are in place for an HR representative to be present at formal meetings and/or hearings;

3. Human Resources (HR) representatives act as advisers and facilitators; they are responsible for:

- Providing coaching and practical advice to managers when developing and changing the working environment and/or job functions;
- Providing professional and expert advice and guidance on the application of this policy;
- Attending all formal stages of the capability procedure;
- Assisting in the monitoring of the effectiveness of measures taken to address capability issues within the Trust by collating and analysing Trust-wide absence levels, employee relations issues, and flexible working programmes;

4. Staff Representatives

When asked to support a member of staff, will advise, accompany and support the employee fully through the capability process, working constructively to ensure the best outcome in the circumstances. They will liaise as necessary with relevant parties.

1. Informal Stage: Discussion/Counselling

- The Trust realises that capability issues may arise frequently and the expectation is that these will mostly be nipped in the bud by being dealt with quickly and efficiently using the informal procedure of the capability policy.
- In the case of serious or gross incompetence or where an essential qualification for the job is lost, informal action will be inappropriate. Such issues will go straight to Stage 3 of the formal procedure (see s9.4) or be managed under the Discipline and Conduct Policy, as appropriate.
- The formal stages of the policy will only be used where informal discussion has not produced an acceptable or sustained improvement in performance. It is important to make employees aware that a failure to respond to informal discussions will lead to formal action being taken.
- Where an employee's performance falls below an acceptable standard, their Team Leader and (if applicable) Clinical Mentor should meet with the employee at the earliest opportunity. The purpose of this meeting will be to:
 1. restate the annual objectives agreed, confirm the standards of performance expected and explain where and how the employee has failed to meet them;
 2. identify and discuss potential causes;
 3. if necessary, put in place an action plan (Apx 3) which clearly states what is expected and the timescale within which it must be achieved
 4. offer assistance and support to employees as appropriate to help them achieve the standards;
 5. identify remedial action, which may include training, and agree clear objectives;
 6. set timescales for improvement and methods of reviewing/monitoring such.
- Careful deliberation should be made regarding the individual's role, remit and duties. The key considerations must be:
 7. how well they understand their responsibilities with regard to service provision;
 8. (if they manage or supervise staff), how effective they are;
 9. how wide and how negative the impact was of their failure in performance;
 10. whether it was reasonable that they failed to perform to standard;
 11. whether or not they were acting in accordance with Trust strategy, policy or management guidance (ie, does this need to be reviewed?);
- The manager will confirm the outcome of the meeting and associated action plan within 7 days of the meeting.

- This letter will record the fact that the meeting has taken place and confirm in writing the key points discussed, including the objectives set, support put in place, timescales for improvement and method of monitoring (taking the form of an action plan if considered necessary). Furthermore, employees should be reminded of the consequences of continued poor performance and that this may lead to a formal review in accordance with the policy.
- The objectives/action plan will be regularly reviewed by the appropriate manager(s) during the review period. At the end of the improvement period an informal meeting should be held to discuss progress.
- Where an employee's performance improves to the required standards, the employee should be notified in writing, clarifying that the employee needs to maintain satisfactory levels of performance and failure to sustain improvements in a period of up to 6 months may result in further/formal action being taken. A copy of this letter should be retained on the employee's personnel file in a designated section in accordance with the General Data Protection Regulation (GDPR) (Regulation (EU) 2016/679).
- If there has been no acceptable or sustained improvement in performance while following the informal part of the capability process, the manager, in consultation with their HR Advisor, should convene a formal review meeting.

2. Formal Stage 1: First Formal Review

- The manager will arrange to meet with the employee, giving them at least 10 days' written notice of the meeting. The letter should outline the purpose of the meeting, the employee's right to be accompanied and the caution that the outcome of the meeting might result in a formal warning.
- The letter should include a copy of all documentary evidence, records and reports relevant to the review.
- During the review meeting, the employee will be given the opportunity to respond to the perceived lack of capability, put forward any mitigating factors and/or any new problems which may be contributing to the poor performance and make suggestions for improvement.
- The outcome of the review meeting will be confirmed in writing to the employee within 7 days of the meeting. This letter must, as a minimum, include details of the actions agreed; timescales for improvement; methods for monitoring and the employee's right of appeal. Furthermore, employees must be reminded of the consequences of continued poor performance and that this may lead to a second review and/or redeployment.

3. Stage 2: Second Formal Review.

The procedure for the second formal review follows the process described above. Additionally, the manager will be accompanied and advised by an HR representative and a professional advisor if appropriate at this meeting.

- If, at the end of this review meeting, it is decided that a further/final formal review is appropriate, the employee should be informed that continued poor performance may lead to dismissal.

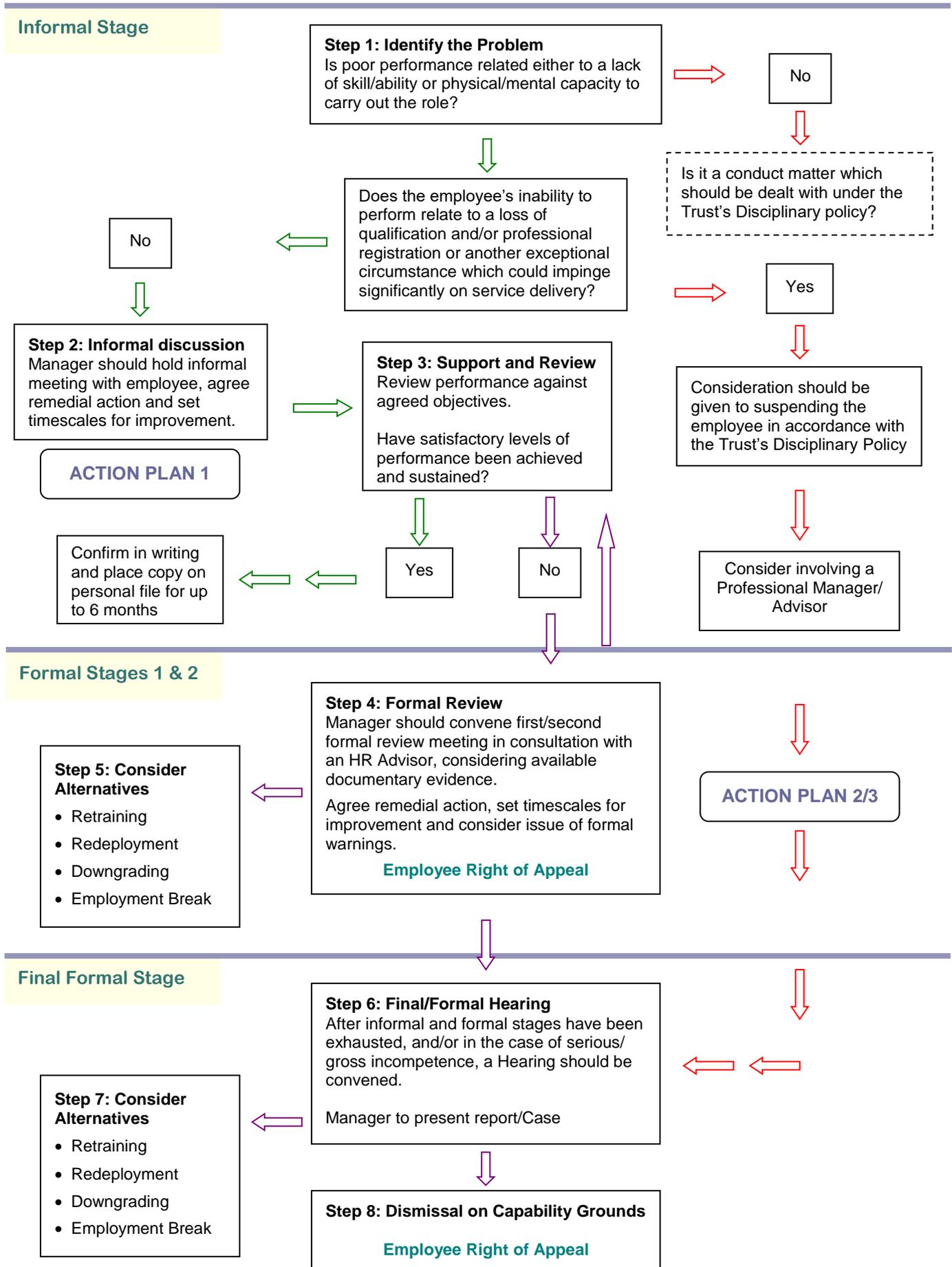
- At this stage, the manager should consider and discuss whether a change of duties, formal retraining or regrading is possible or appropriate given all the circumstances.
- The employee should receive written confirmation of the outcome of this meeting within 7 days. The letter should include details of the actions agreed, timescales for improvement, methods for monitoring and reviewing and the employee's right of appeal. Employees should also be reminded of the consequences of continued poor performance and that this may ultimately lead to redeployment or dismissal.

4. Stage 3: Final/Formal Hearing

- In the following circumstances, the formal hearing will take place in accordance with the Trust's 'Best Practice Guide to Formal Hearings and Appeals'.
 - a. after informal and formal stages have been exhausted, and the member of staff continues to fail to reach the required standards in the specified period;
 - b. in exceptional circumstances where informal action/formal review is inappropriate because an essential qualification for the job is lost;
 - c. and/or in the event of serious/gross incompetence.
- The manager responsible for the early stages of the capability process will present their account of the performance review process to the hearing panel.
- To support their case, they will collate the action plans, letters and any supporting evidence (eg, written statements of complaint or concern, verbal statements taken at interview, work records, professional advice or opinion); they may also refer to information contained on the individual's personal file).
- Alternative Action to Dismissal. During this final review/hearing stage, consideration will be given to alternative action to that of dismissal. This may include:
 - d. consideration of redeployment;
 - e. downgrading to a post of lesser responsibility;
 - f. retraining, coaching etc;
 - g. consideration of a career/employment break.
- None of these is an automatic right and a decision to take this course will be subject to the needs of the service and consideration of all the facts.
- Where redeployment or downgrading is decided upon, there will be no protection of pay or benefits and the employee will be employed on the terms and conditions that attach to the post, following their contractual statutory notice period. If there are exceptional circumstances (if, for example, the action is being taken in accordance with the Equality Act 2010 (EA)), these will be taken into account.
- It may be considered appropriate to notify a relevant statutory professional

body that capability action is being taken against an employee. In the majority of cases, this will only apply in cases of serious/gross incompetence. If so, the HR Advisor to the panel will ensure that the relevant professional body is consulted and/or notified as appropriate and in accordance with the professional body's code of ethics/conduct. The employee will be informed of this and any subsequent action.

The Stages of Capability – Informal and Formal



A Manager's Guide to Managing Capability Issues

PRINCIPLES and GENERAL POINTS

- The overriding principle is that we want all employees to work to their full potential and to achieve the standards required. To this end, we will provide all necessary support.
- However, if despite all possible support, they still fail to perform satisfactorily, we will look at alternatives (retraining, redeployment, regrading), but the possibility that there may be no option but to dismiss must be borne in mind.
- Managers are expected to be aware of their employees' performance and thus deal with problems of poor performance promptly and equitably – nip it in the bud.
- At each point in the procedure, explain fully and clearly to the employee the perceived weaknesses or deficiencies in performance – and make sure they understand.
- If an employee is sick at any point during the process, the timescales will be suspended for the duration of their absence.
- Explain that they have the right to be accompanied by a fellow employee or trade union representative at each stage of the formal procedure and encourage them to use this right.
- Treat all documentation relating to the use of this procedure confidentially and only make it available to those directly involved
- Discuss concerns with HR: they can support, advise and guide you in order to maintain consistency and fairness in the application of the policy.
- Keep HR informed of the progress of any case which reaches the formal procedure.

PERFORMANCE STANDARDS

In order for there to be a context for capability and performance management issues, employees must know what is expected of them in the first place so that are aware when they have fallen short.

Employee Induction:

All new employees must be given a good basic introduction to the Trust and local matters; therefore, make sure that they attend the Trust's Corporate Induction and that they are given sufficient local induction both for their base and for their department.

Any failure to perform in the first few months (usually three months from start date but, for trainees, the three months starts at the end of training) should be dealt with under the Probationary Policy.

Setting & Reviewing Performance Standards:

When an employee is new in any role, their responsibilities and duties must be clearly explained to them – use the job description and person specification in the first place.

Then, an employee's annual objectives should be mutually agreed, using the Trust's appraisal process.

The objectives should be restated, monitored and reviewed during the year and reset annually.

FAILURE IN PERFORMANCE

Dealing Informally With Issues of Capability

Meet with the employee as soon as you can and:

- explain what you think the perceived problems are;
- explain why and when you think they occurred and clarify which expected standards of performance have not been met; taking into account all the factors which might have had an effect on the employee's performance, including:
 - availability of resources
 - volume of work
 - training
 - personal matters
 - ill health
 - changes in management or working practices;
- ask the employee to explain why they think the expected standards of performance have not been met; and consider any evidence that they may provide;
- put in place an informal action plan, setting specific targets for improvement. This may involve:
 - changes to workload
 - additional resources
 - additional supervisory support
 - further training
 - organisational changes, or
 - where a personal issue is identified, counselling or a period of special leave;
- make sure that what you agree relates directly to the problems and is achievable
- give a reasonable timescale in which to achieve it (eg, *2-3 weeks*)
- plan to review it on a weekly basis (see template action plan, appendix 4)
- explain that meeting the required standards in the time agreed will mean that no further action is necessary but that the consequences of not meeting them will result in proceeding to the formal stage.

Making it Formal

Discuss the situation with HR.

There are two formal stages, considered sufficient to give an employee ample time to improve and to reach the required standards. The aim is to achieve satisfactory performance; however, failure to improve during the time given, and with all the support possible in the circumstances, is likely to result in dismissal, although other options will also be considered.

An HR representative should be present at all formal meetings and, if applicable, a professional advisor, too.

You will have explained to the employee, when reviewing the failed informal action plan, that they would now progress to the formal stages of the capability procedure. To that end:

- invite the employee, in writing, to the first formal review meeting, giving 10 days' notice;
- reiterate the areas where performance is not satisfactory and restate the objectives to be met;
- point out again their right to be accompanied during the formal stages of the process and encourage them to take advantage of this right.

At the meeting:

- remind the employee that this is a formal review in accordance with the Trust's Capability Policy;
- review the action plan, point by point, and state exactly how each of the expected performance standards have still not been met, referring to any other arrangements put in place;
- ask the employee to explain why they think the expected standards of performance have not been met; and consider any evidence that they provide or suggestions for improvement they may make;

Consult with the HR representative and, if applicable, Professional Adviser in attendance and, if you are satisfied that the employee has still failed to improve sufficiently, respond making sure you cover the following points:

- where performance continues to be deficient;
- whether a formal warning is being issued;
- 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, including counselling or advice from an external source.
- any further steps and possible sanctions that may result from a failure to meet the required standards, including a formal final hearing being convened and, ultimately, dismissal.

Other remedies:

- Consider a transfer to another post if it is likely that it might offer an effective means of securing an appropriate level of performance and/or contribution from the employee concerned.
- Depending on the nature of the issue other options may include formal retraining or an employment break.

The outcome of the meeting must be confirmed in writing, detailing the points above. Performance against the agreed targets should be periodically reviewed in meetings between the employee and the manager.

- put in place a formal action plan – 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;
- again, make sure what you agree relates directly to the problems, and is achievable and

give a reasonable timescale (no longer than 4 weeks – it is important that this process is not unnecessarily protracted); and plan to review it on a weekly basis (see template action plan, appendix);

- explain that meeting the required standards in the time agreed will mean that no further action is necessary but that the consequences of not meeting them will result in moving to the final formal stage.

If the necessary improvement in performance is achieved within the set timescale, no further action will be necessary and the successful outcome of the meeting should be confirmed to the employee in writing. A copy of this letter should be retained on the employee's HR file and monitoring should take place for a further period of up to 6 months.

Final/Formal Capability Hearing

If an employee's performance continues to fall short of the required standard (or in cases of serious incompetence or where employees in their training period have failed to complete compulsory training), the relevant manager, in consultation with HR, will refer the case directly to a final formal Capability Review Hearing.

The employee must be informed in writing, with 10 days' notice, that a Hearing has been convened. The letter must detail:

- areas identified for improvement and where the employee has failed to achieve this
- possible outcomes of the hearing
- date, time and venue of the Panel
- names of the Panel members
- right to be accompanied by a work colleague or trade union representative.

Provide copies of the supporting evidence to the panel 10 days prior to the Hearing.

The Panel will:

- consider evidence from the manager and the employee concerning the deficiencies in performance/attendance and the steps that have been taken to secure improvements;
- review the outcomes of any training/support that has been initiated to secure an improvement in performance/attendance;
- review the written documentation from any previous review meetings;
- if the failure to meet the expectations of the post may have been influenced by illness or disability the Panel will consider whether all appropriate adjustments have been made;
- the employee and the manager may call witnesses and the panel, the manager and the employee may all ask questions of these witnesses.

The Panel may take one or more of the following courses of action:

- in consultation with the manager, set further performance targets appropriate to the post and to the deficiencies that have been identified, and a set time period in which the improvement in performance is required.;
- recommend changes to the working practices, working arrangements and patterns of work for the individual employee, and/or the department in which he/she is employed, and the support and training provisions that are available to the employee concerned;
- recommend formal retraining which would enable the employee to undertake the full range of duties associated with the post

- recommend redeployment to a vacant post elsewhere in the Trust that would be appropriate to the skills and capabilities of the employee – taking great care that is not simply an option to “move the problem around”;
- dismiss.

Written confirmation of the decision of the panel will be provided to the employee including details of their right to appeal

ACTION PLAN – INFORMAL / FORMAL STAGE 1 / FORMAL STAGE 2

Area of Concern	Actions to be Taken/ Improvement Expected	Target Date	Review Meeting Notes

Area of Concern	Actions to be Taken/ Improvement Expected	Target Date	Review Meeting Notes

LEVELS OF AUTHORITY

Job titles and positions are subject to change in line with the development of the organisation. The job titles shown below are for illustration only and the interpretation of this section should always ensure:

- (a) That the original decision maker is correctly placed in the Trust in respect of seniority, authority and enablement and that the level of authority is detailed within the individual's job description
- (b) That any manager chairing an appeal has sufficient seniority to reverse the original decision, and have had no previous involvement in the case

Managerial levels at which capability action may be taken: -

Level	Job Title
Informal Review	<ul style="list-style-type: none"> • Supervisor/Team Leader/First Line Manager
Level One Warning	<ul style="list-style-type: none"> • First Line Manager/Line Manager
Level Two Warning	<ul style="list-style-type: none"> • Line Manager
Level Three Warning	<ul style="list-style-type: none"> • Senior Managers, or above = a manager who reports directly to a Very Senior Manager/Head of Department)
Dismissal (with or without notice)	<ul style="list-style-type: none"> • Very Senior Manager = manager/director who reports directly to a Director (including Divisional Directors) <p>Where dismissal is a potential outcome, Very Senior Managers with the right to dismiss must be on the panel.</p>
Suspension	<ul style="list-style-type: none"> • Supervisor (in the event of Urgent Care issues and following instruction from the Duty Officer) • Team Leader • Duty Officer • Line Manager • Senior Managers as Level Three, including Executive Directors.

Equality Impact Assessment Form: Section One – Screening

Name of Function, Policy or Strategy: **Capability Policy**

Officer completing assessment: **Geraldine Shepherd**

Telephone: **01869 365056**

1. What is the main purpose of the strategy, function or policy?
To set out and clarify how capability issues should be managed and to whom the policy applies or not.
2. List the main activities of the function or policy.
Explains the informal and formal stages of the capability process; provides tools to help navigate same.
3. Who will be the main beneficiaries of the strategy/function/policy?
All managers and employees of the Trust.
4. Use the table overleaf to indicate the following:
<ul style="list-style-type: none"> a. Where do you think that the strategy/function/policy could have an adverse impact on any equality group; ie, it could disadvantage them? b. Where do you think that there could be a positive impact on any of the groups or contribute to promoting equality, equal opportunities or improving relations within equality target groups?

Protected Characteristic		Positive Impact	Negative Impact	Reasons for impact
GENDER	Women	N/A	N/A	Neutral impact is anticipated – should benefit all
	Men	N/A	N/A	
RACE	Asian or Asian British people	N/A	Yes	Possible language difficulties for those whose first language is not English
	Black or Black British people	N/A	Yes	
	Chinese people and other people	N/A	Yes	
	People of Mixed Race	N/A	Yes	
	White (inc Irish) people	N/A	Yes	
	Disabled People	N/A	Yes	Possible learning difficulties and problems with understanding
	Lesbians, gay men and bisexuals	N/A	N/A	
AGE	Older People (60+)	N/A	N/A	Possible age-related health issues
	Younger People (17 to 25) and children	N/A	N/A	
	Faith Groups	N/A	N/A	
	Equal Opportunities and/or improved relations	N/A	N/A	Yes – ensuring that a fair and consistent process is followed for all Trust staff.

Notes:

Faith groups cover a wide range of groupings, the most common of which are Muslims, Buddhists, Jews, Christians, Sikhs and Hindus. Consider faith categories individually and collectively when considering positive and negative impacts.

The categories used in the race section refer to those used in the 2001 Census. Consideration should be given to the specific communities within the broad categories such as Bangladeshi people and to the needs of other communities that do not appear as separate categories in the Census, for example, Polish.

5. If you have indicated that there is a negative impact, is that impact:

	Yes	No
Legal <i>(it is not discriminatory under anti-discriminatory law)</i>	X	
Intended		X

Level of Impact

High	Low
	X

If the negative impact is possibly discriminatory and not intended and/or of high impact then please complete a thorough assessment after completing the rest of this form.

6a) Could you minimise or remove any negative impact that is of low significance? Explain how below:

Clear, simple language used. Line managers support and guide their staff to understand what has been written in the policy and the impact/effect it would have on them.

6b) Could you improve the strategy, function or policy positive impact? Explain how below:

By using clear and simple language.

7. If there is no evidence that the strategy, function or policy promotes equality, equal opportunities or improves relations – could it be adopted so it does? How?

N/A

Please sign and date this form, keep one copy and send one copy to the Trust's Equality Lead.

Signed:

Name:

Date:

Equality Impact Assessment Form Section Two: Full Assessment

Name of Function, Policy or Strategy: Capability Policy

Officer completing assessment: Geraldine Shepherd

Telephone: 01869 365056

Part A

- Looking back at section one of the EIA, in what areas are there concerns that the strategy, policy or project could have a negative impact?

Gender	✓
Race	✓
Disability	✓
Sexuality	
Age	
Faith	

- Summarise the likely negative impacts:-

Possible disproportionate effect on sickness levels for those with caring responsibilities

– perceived or otherwise. Possible difficulties with understanding relating to language

problems and/or learning disabilities. No perceived issues relating to other groups.

- Using the table below, give a summary of what previous or planned consultation on this topic, policy, function or strategy has or will take place with groups or individuals from the equality target groups and what it noted about the likely negative impact?

Equality Target Groups	Summary of consultation planned or taken place
Gender	None – conclusions based on experience and discussion with HR peers, including E&D Manager .
Race	As above
Disability	As above

Equality Target Groups	Summary of consultation planned or taken place
Sexuality/Transgender	N/A
Older People	N/A
Younger People	N/A
Faith	N/A

4. What consultation has taken place or is planned with Trust staff including staff that have or will have direct experience of implementing the strategy, policy or function?

..... Standard 21-day consultation with all staff is planned prior to policy being approved and
 signed off.

5. Check that any research, reports, studies concerning the equality target groups and the likely impact have been used to plan the project and guide or indicate what research you intend to carry out:-

Equality Target Groups	Title / type of / details of research/report
Gender	
Race	
Disability	
Sexuality/Transsexuality	
Older People	
Younger People	
Faith	

6. If there are gaps in your previous or planned consultation and research, are there any experts/relevant groups that can be contacted to get further views or evidence on the issues?

Yes (Please list them and explain how you will obtain their views)

No

Part B

Complete this section when consultation and research has been carried out

7a. As a result of this assessment and available evidence collected, including consultation, state whether there will be a need to be any changes made/planned to the policy, strategy or function.

7b. As a result of this assessment and available evidence, is it important that the Trust commissions specific research on this issue or carries out monitoring/data collection?

(You may want to add this information directly on to the action plan at the end of this assessment form)

8. Will the changes planned ensure that negative impact is:

Legal?
(not discriminatory, under anti-discriminatory legislation)

Intended?

Low impact?

9a. Have you set up a monitoring/evaluation/review process to check the successful implementation of the strategy, function or policy?

Yes No

9b. How will this monitoring/evaluation further assess the impact on the equality target groups/ensure that the strategy/policy/function is non-discriminatory?

Details:

Please complete the action plan below, sign the EIA, retain a copy and send a copy of the full EIA and Action Plan to the Trust's Equality Lead.

Signed:

Name:

Date:

