



**POLICY AND GUIDELINES  
FOR DEALING WITH  
CAPABILITY AND PERFORMANCE**

**2010-13**

## 1. Policy and Principles

The University wishes to promote good performance amongst all its employees and recognises that the effective development of the workforce is crucial to the University's success. In order to achieve this, the University will encourage and foster the effective management of its staff, including appropriate induction, relevant training and continuing professional development.

The Capability Policy and Procedure comes into effect when dealing with employees' whose performance is less than satisfactory and their ability to satisfactorily perform the duties of their post is brought into question. Problems of capability may exist where an employee is lacking in an area of knowledge, skill or ability, where there have been organisational changes which require different skills or where for reasons of long term sickness absence, the employee is unable to perform the duties of his/her job to an acceptable standard.

The aim of this policy and procedure is to provide a framework within which managers can work with employees to maintain satisfactory performance standards and to encourage improvement where necessary. The Capability Policy and Procedure is not intended for use in situations where there is a deliberate failure by the employee to perform to the standards of which he/she is capable. Failure to perform to the required standards through negligence, lack of effort or insubordination would be viewed as misconduct and would likely be dealt with under the Disciplinary Policy and Procedure.

The Capability Policy and Procedure is based on some general principles which will accord with most people's views of 'fairness' but which are also well established in statute or case law. These principles are as follows:

- The application of this procedure will be fair, prompt, impartial, reasonable, consistent and applied without discrimination. Action will be taken which is reasonable, necessary, and understood.
- All parties involved have the right to be heard with courtesy and respect and to state their case. Any action taken under this policy must be in line with the University's Equality and Diversity Policies.
- All communication will be conducted directly with the employee and not via their representative although a nominated representative will be sent copies of any correspondence.
- At all formal levels of the Capability Policy and Procedure, an employee is entitled to be accompanied by a trade union representative or by a work colleague.
- Information relating to these matters should only be divulged to third parties on a 'need to know' basis. Otherwise, all statements, letters and other communications should be regarded as confidential to those involved in the process.

## 2. The role of the University in supporting good performance

- **Induction and probation:** new employees must be provided with clear information about their role in the department in order to perform to the best of their ability. This is particularly important during the probationary period.
- **Mentoring:** new employees are assigned a mentor to provide support, guidance and advice outside of the normal line management arrangements.
- **Role of the manager:** line managers should ensure that employees are continually aware of their duties and responsibilities through designated review processes including PRDP (Performance Review Development Plan) and on-going dialogue. Managers and supervisors should ensure that they have regular review meetings with those that they manage and that there is opportunity for discussion. Any problems that occur should be brought to the attention of the employee promptly and advice and direction should be offered which is supportive and enabling rather than destructive and negative.
- **Training and development:** the University recognises that employees need to be properly trained to perform the requirements of their evolving jobs, and has a policy of Staff Development for this purpose. It also recognises the importance of continuing to train and

develop its employees, to maximise their efficiency, effectiveness and personal satisfaction from the job.

- **Employee responsibilities:** individual staff have a responsibility to maintain and develop their skills, knowledge and expertise in order to accommodate change and adapt to new working requirements.

### 3. Informal discussions

The University recognises that there will be occasions when competence or performance falls below expectations. In the majority of cases, where employees are experiencing difficulties with performance, the problem should be immediately addressed when it first becomes apparent, either through the normal daily/weekly meetings, or in an informal, supportive way through dialogue between the line manager and the employee. The employee should, wherever practicable, be assisted through training, coaching and counselling and should be given reasonable time to achieve the required standard.

With support, and through drawing attention to the fact that there is a problem, performance may return to expected standards. However, if it becomes apparent that an informal approach to improving performance has failed, the employee should be advised that a formal process will be entered into. The employee should be clear about the expectations arising from informal discussions.

Where a manager has identified that the work performance of a member of staff is unsatisfactory, this should be brought to the employee's attention in as constructive a manner as possible. With information about the employee's unsatisfactory work performance, the manager should meet with the employee informally to discuss the causes of and to attempt to alleviate the problem. The employee should be given the opportunity to respond to any criticism of their performance. The Human Resources Department will provide support at this stage as required.

It is important that the employee is given every reasonable support to enable them to improve on their unsatisfactory work performance and this may include providing training opportunities and arranging regular one-to-one review meetings. Informal discussions may be held with a view to (for example):

- a) clarifying the required standards;
- b) identifying areas of concern;
- c) establishing the likely causes of poor performance and identifying any training needs;
- d) setting targets for improvement; and/or
- e) agreeing a timescale for review.

The subsequent performance of the employee should be monitored and assessed as objectively as possible and as frequently as appropriate, bearing in mind particularly the nature of the duties and the length of time considered reasonable for an improvement to take place.

### 4. Formal Capability Policy and Procedure: Capability Hearings

Where formal action is being considered in respect of capability, it is the responsibility of the manager to involve a representative from the Human Resources Department at the earliest opportunity, including at the investigatory stage. No action should be taken to invoke the formal Capability Procedure without the prior involvement of a representative from Human resources. The Human Resources Department will provide advice on training courses, which may be helpful, and they may also provide advice on mentors, where this is considered appropriate.

The formal stage should only be commenced once informal methods have been tried but without success (as outlined in points 1 to 3). The line manager will assemble as much factually based information and evidence as is practicable about the shortfall in the employee's performance and the effect this is having on their Department/team/area of work. In gathering this information, managers should take into account any relevant background information and ensure their investigation is carried out as quickly as possible.

The line manager will call a capability hearing and will advise the member of staff, in writing, of the following:

- that the line manager intends to address the employee's performance through the Capability Procedure (a copy of which should be enclosed with the letter), since informal performance management outside of this Procedure has not brought about the required improvements.
- that he/she is expected to attend a formal capability/performance management hearing at a specified place and time.
- details supporting the fact that the individual's performance has fallen below the level required in the job
- that the member of staff has the right to be accompanied at the meeting by a trade union representative or a workplace colleague (but not more than one person).

A capability hearing is a formal hearing to discuss concerns regarding performance or capability, at or following which a sanction may be issued, which could include a warning or dismissal. A capability hearing will be held at each stage of the formal procedure.

Human Resources will provide the employee with written notice of the date, time and place of the capability hearing as agreed with the employee's manager. The employee will be given reasonable notice of the date for the meeting to enable him/her to prepare; usually five working days unless another acceptable timeframe is agreed.

Prior to the meeting, the line manager should make available to the employee any documentation that is to be relied upon during the meeting, if applicable. The manager will inform the employee of the concerns over their performance and the basis for those concerns. The employee should have a reasonable opportunity to consider this information before the hearing.

The hearing will normally be held by the manager and a member of Human Resources (normally an HR Officer). The employee must take all reasonable steps to attend the hearing. Failure to attend a hearing without good reason may be treated as misconduct. If the employee or their companion cannot attend at the time specified they should inform their manager immediately who will seek to agree an alternative time.

A hearing may be adjourned if the employee's manager needs to gather any further information or give consideration to matters discussed at the hearing. The employee will be given a reasonable opportunity to consider any new information obtained before the hearing is reconvened.

Human Resources will write to the employee giving confirmation of the decision, the reasons for it, and the right of appeal.

Where the relationship between the line manager and the employee has deteriorated to the extent that it would be counter-productive for the line manager to carry out the Stage 1 or Stage 2 hearing, then the matter will be referred to the Head of Department or the next most senior line manager, who will conduct the hearing.

## **5. Right to be accompanied at hearings**

The employee may bring a companion to any capability or appeal hearings under this procedure. The companion may be either a trade union official or a fellow employee. The employee must tell the manager conducting the hearing who their chosen companion is, in good time before the hearing.

Employees are allowed reasonable time off from duties without loss of pay to act as a companion. There is no duty on employees to act as a companion if they do not wish to do so.

In some circumstances the choice of companion may not be allowed: for example, anyone who may have a conflict of interest, or whose presence may prejudice the hearing.

A companion may make representations, ask questions, and sum up a case, but will not be allowed to answer questions on the employee's behalf. The employee may confer privately with their companion at any time during the hearing.

## **6. STAGE 1: First Capability Hearing**

Where performance is deemed unsatisfactory, and informal steps have either failed to resolve the situation or are not appropriate, a first capability hearing will be held.

The purposes of the first capability hearing include:

- a) setting out the required standards that are considered not to have been met;
- b) establishing the likely causes of poor performance;
- c) allowing the employee the opportunity to explain the poor performance and ask any relevant questions;
- d) discussing measures, such as additional training or supervision, which may improve performance;
- e) setting targets for improvement; and
- f) setting a timescale for review.

Following the hearing, if it is decided that it is appropriate to do so, Human Resources will give the employee a first written warning setting out:

- a) the areas in which the employee has not met the required performance standards;
- b) targets for improvement;
- c) any measures, such as additional training or supervision, which will be taken with a view to improving performance;
- d) a timescale for review;
- e) the consequences of failing to improve within the review period, or of further unsatisfactory performance.

An agreed programme of action should be detailed in writing to the employee, outlining the improvement required within the agreed time period, and a date for review specified.

The manager will monitor and review the employee's performance. At the end of the review period Human Resources will write to inform the employee of the next step, as follows:

- a) no further action is required because the required improvement has been achieved and there is reasonable confidence that this will be sustained;
- b) to review and adapt the action plan and/or extend the period for improvement if there is a legitimate and genuine reason, and to set a further review date; or
- c) to progress to Stage 2 of the Capability Policy and Procedure, usually because there has been no improvement or because progress falls well short of what was required

Where it is decided to review and adapt the action plan and/or extend the period of improvement, the employee should be informed in writing of the areas which have been satisfactorily achieved and also of the further improvements required before the next review period. The employee should also be warned that failure to reach the required standards may result in the employee being taken through to Stage 2 of the procedure. The manager will arrange a meeting with the employee to discuss the action taken/next steps. The employee may wish to be accompanied to the meeting.

The warning will remain active on the employee's personal Human Resources record for an agreed period.

## **7. STAGE 2: Second Capability Hearing**

If performance does not improve within the review period, or if there are further instances of poor performance while the employee's first written warning is still active, a second capability hearing will be held.

The purposes of the second capability hearing include:

- a) setting out the required standards that are considered not to have been met;

- b) establishing the likely causes of poor performance including any reasons why the measures taken so far have not led to the required improvement;
- c) allowing the employee the opportunity to explain the poor performance and ask any relevant questions;
- d) identifying further measures, such as additional training or supervision, which may improve performance;
- e) setting targets for improvement; and
- f) setting a timescale for review.

Following the hearing, if the manager decides that it is appropriate to do so, Human Resources will give the employee a final warning, setting out:

- a) the areas in which the employee has not met the required performance standards;
- b) targets for improvement;
- c) any measures, such as additional training or supervision, which will be taken with a view to improving performance;
- d) a further timescale for review;
- e) the consequences of failing to improve within the timescale or of further unsatisfactory performance.

The manager will monitor and review the employee's performance. At the end of the review period Human Resources will write to inform the employee of the next step, as follows:

- c) no further action is required because the required improvement has been achieved and there is reasonable confidence that this will be sustained;
- d) to review and adapt the action plan and/or extend the period for improvement if there is a legitimate and genuine reason, and to set a further review date; or
- e) to progress to Stage 3 of the Capability Policy and Procedure, usually because there has been no improvement or because progress falls well short of what was required;

Where it is decided to review and adapt the action plan and/or extend the period of improvement, the employee should be informed in writing of the areas which have been satisfactorily achieved and also of the further improvements required before the next review period. The employee should also be warned that failure to reach the required standards may result in the employee being taken through to Stage 3 of the procedure. The manager will arrange a meeting with the employee to discuss the action taken/next steps. The employee may wish to be accompanied to the meeting.

A final written warning will be placed on the employee's personal HR record for an agreed period.

## **8. STAGE 3: Dismissal or Redeployment**

If performance does not improve within the further review period set out in the final written warning, or if there are further serious instances of poor performance while the final written warning is still active, the Manager will refer the matter to a senior manager (e.g. a Head of Faculty or Department, or a member of the Chief Executive's Team), who will hold a further capability hearing. This final stage parallels the previous stage, but now includes the possibility of employment being terminated on the grounds of capability should the required improvements not be achieved and sustained.

The purposes of the Stage 3 hearing include:

- a) setting out the required standards that are considered not to have been met;
- b) identifying areas in which performance is still unsatisfactory;
- c) allowing the employee the opportunity to explain the poor performance and ask any relevant questions;
- d) establishing whether there are any further steps that could reasonably be taken to rectify the poor performance;
- e) establishing whether there is any reasonable likelihood of the required standard of performance being met within a reasonable time; and
- f) considering whether there is any practical alternative to dismissal, such as redeployment to any suitable job that is available at the same or lower grade.

In addition to the above options, the range of options now includes:

- dismissal on the grounds of capability.

In exceptional cases where the senior manager believes that there is a reasonable likelihood of the necessary improvement being made within a reasonable time, a further review period will be set and the final written warning extended.

If performance remains unsatisfactory and there is to be no further review period, the senior manager will consider whether to:

- a) redeploy the employee into alternative employment at the same or a lower grade; or
- b) dismiss the employee.

In the event that it is not possible to offer appropriate alternative employment, or the employee has not accepted it where offered, the matter will be referred to the Director of Human Resources. Where the senior manager believes that there is no realistic alternative but to dismiss the employee, they will make a recommendation to the Vice-Chancellor that employment be terminated on the basis that the employee is unable to properly perform their contractual duties due to capability issues.

Prior to the decision to terminate employment, the senior manager holding the Capability Hearing should satisfy themselves of the following:

- The Capability Policy and Procedure has been properly followed
- That the employee has had a reasonable opportunity to improve
- That support and training has been offered where appropriate
- That options short of dismissal such as redeployment have been considered and have been rejected or are not feasible
- That there is no underlying medical condition/reason affecting performance

The Vice-Chancellor will consider the information supplied by the senior manager. Where the Vice-Chancellor agrees with the recommendation to dismiss, the employee will be invited to a meeting with the Vice-Chancellor to confirm the terms of the dismissal. The employee is under no obligation to attend the meeting, and they also have the right to be accompanied at the meeting.

Dismissal will normally be with full notice or payment in lieu of notice, unless the employee is guilty of gross misconduct within the meaning of the University's Disciplinary Policy, in which case they may be dismissed without notice or any pay in lieu.

The employee has the right to appeal against the Vice-Chancellor's decision in accordance with the Appeals section below.

## **9. Appeals**

The employee may appeal against the outcome of any stage of the formal capability procedure. An appeal should be made in writing, stating the full grounds of the appeal, to the University Secretary/Clerk to the Governors within 10 days of the date on which they were informed of the decision. The appeal submission will be circulated to Panel members.

The University Secretary/Clerk to the Governors will give written notice of the appeal hearing not less than 10 working days prior to the date of the hearing. In cases of dismissal, the appeal will be held as soon as practicable and the employee should set out the grounds on which they wish to appeal against the decision to dismiss.

The appeal hearing will be held by a panel of three, made up from the Chief Executive's Team and members of the Board of Governors, details of which will be confirmed in writing by the University Secretary/Clerk to the Governors not less than 10 working days prior to the hearing.

The senior manager involved in the procedure at Stage 3 above will be asked to attend the hearing to give the management's reasons for recommending dismissal.

If the employee raises any new matters in their appeal, the Panel may need to carry out further investigation. If any new information comes to light, the University Secretary/Clerk to the Governors will provide the employee with details in writing. The employee will have a reasonable opportunity to consider this information before the hearing.

Depending on the grounds for the appeal, the appeal hearing may be a complete rehearing of the matter or a review of the original decision.

Following the appeal, the Panel may:

- a) confirm the original decision;
- b) revoke the original decision; or
- c) substitute a different outcome.

The decision of the Panel will be final and binding. This decision will be confirmed by the University Secretary/Clerk to the Governors in writing within five working days of the hearing. There will be no further right of appeal.

The date that any dismissal takes effect will not be delayed pending the outcome of an appeal. However, if the appeal is successful, the decision to dismiss may be revoked with no loss of continuity or pay, and the employee will be reinstated to their post or to an agreed alternative.

## **CAPABILITY AND ILL HEALTH**

### **1. Introduction**

This section of the Capability Policy outlines the procedure to be used in relation to ill health which, in this context, is defined as 'incapacity which affects the employee's capability to fulfil the requirements of their role'. Ill health can either be considered to be persistent and frequent short-term absences, or long-term absence.

Special care will be taken where the nature of the illness or condition could fall within the terms of the Disability Discrimination Act 1995. Occupational Health should be consulted before action is taken in all such cases, to seek medical guidance on the nature of the employee's condition and the question of whether it amounts to a disability within the meaning of the Disability Discrimination Act 1995.

Where persistent short term absence or prolonged absence is due to medically certificated sickness, the issue usually becomes one of capability and should be dealt with under the procedure outlined below, modified appropriately to the circumstances. In deciding what action to take in these cases a sympathetic and considerate approach should be taken, and the following should be considered, in consultation with Human Resources:

- the likelihood of an improvement in health, and subsequent attendance (based on professional occupational health medical advice);
- the possibility of adapting the current duties;
- the availability of suitable alternative work;
- the effect of past and future absences on the University; and
- whether the illness is a result of a disability as defined in the Disability Discrimination Act 1995; and
- whether the condition is sufficiently chronic or disabling that ill-health retirement should be considered.

If an employee has a high level of absence due to intermittent sickness or is absent due to sickness for a continuous period of at least eight weeks, then he/she should be referred to the University's Occupational Health Physician for review. The purpose of such a review is to:

- take a positive and pro-active approach to supporting the employee at a time of ill health;
- confirm the nature of the illness/absence;
- seek a prognosis of the likely duration and some estimation of a return to work;
- establish any contributory factors, including work related issues, and secure advice on addressing these;
- consider if the University can assist a return to work in whatever form;
- enable informed decisions to be made about re-distribution of duties in the medium term and in respect of consequential temporary staff cover; and
- where there is no reasonable prospect of a return in a reasonable timeframe, or a likelihood that a return to work will be viable, consider the appropriate procedures to be followed. In particular, where there is a known diagnosis, which is serious or sensitive, all the circumstances and options (including ill-health retirement) will have to be considered in reaching any conclusion.

The employee's ill health absence will be reviewed by the manager, who will liaise with a relevant Human Resources Officer.

The purpose of the review is to:

- a) ascertain the nature of the problem (involving Occupational Health where appropriate); and
- b) identify any action which needs to be taken to support the employee (e.g. counselling support or a phased return to work).

It is important to stress that action taken under this policy and procedure is taken because the illness may create an untenable employment situation, and render the person incapable of performing their contractual duties.

Factors which will be taken into account include:

- the length of the employee's absence
- the degree of disruption caused to their team and department
- the level of seniority or degree of specialism of the employee's job
- the feasibility of employing a temporary replacement
- the urgency of having the work done
- the prospects of recovery from the illness
- the availability of any suitable alternative employment

Where a medical report is sought by the University, the employee will be informed of their rights under the Access to Medical Records Act 1988, and will be asked for written consent to the report being given via an Occupational Health consent form. If consent is withheld, management will base any decisions on the information available at that time.

## **2. Frequent periods of absence due to ill health**

Persistent short periods of sickness absence will normally constitute unsatisfactory attendance and may be dealt with under the Disciplinary Procedure. It is recognised, however, that some conditions may result in frequent periods of absence, and therefore every case will be treated individually. Where appropriate, the matter will continue to be handled under this Procedure at the appropriate stage.

Where a pattern of absence emerges (e.g. persistent absence attached to the weekend) the Disciplinary Procedure may be implemented at an early stage.

Recognition is given that such absences can be an indication of, for example, morale problems, depression, or personal difficulties. In such circumstances, appropriate support will be identified and given wherever appropriate.

## **3. Long term ill health**

Cases of long-term ill health will be referred to Occupational Health for a professional medical prognosis. It is recognised that some conditions may result in this long term absence, and therefore every case will be treated individually.

If an employee's illness is long term or progressive, it may fall within the provisions of the Disability Discrimination Act 1995 and guidance must be sought on this point from Occupational Health or another medical health professional. The medical advisor will also be asked to identify whether reasonable adjustments within the workplace could and/or should be made to assist the employee in returning to work.

Every reasonable effort will be made by the University to provide appropriate support to an employee diagnosed with a serious illness or condition.

## **4. Procedure for dealing with long-term absences**

### **Stage 1 – Review Meeting with Manager**

Human Resources will write to the employee inviting them to a meeting with their line manager to discuss their current state of health and capacity for work. A minimum of five working days' notice should be given. They may be accompanied at the meeting by a companion (a trade union representative or a workplace colleague). A relative or friend may attend instead if the employee requests this.

It may be necessary, after taking advice and consulting with the employee, to arrange a home visit to carry out such a meeting if the employee is on a period of long term absence. The employee will be given a copy of the Capability Policy and Procedure.

The employee will be asked to attend an appointment with the Occupational Health Physician, which may involve a medical examination by the physician or a relevant third party i.e. specialist or consultant. Occupational Health will provide a written report to the University, subject to the terms of the Access to Medical Reports Act 1988 (as outlined in section 1 above). The employee is obliged to co-operate with such a referral but the employee's consent will be required if further medical advice is required (e.g. GP or Consultant). This information is crucial to the discussion, as it will set out any likely improvement in the health of the employee.

When the Occupational Physician's report has been received, the manager will invite the employee to attend a meeting to discuss their current state of health and capacity for work. A minimum of five working days' notice should be given. The employee may be accompanied at the meeting by a trade union representative or a workplace colleague. A relative or friend may attend instead if the employee requests this. The purpose of the meeting is to:

- Jointly review the content of the medical opinion/prognosis and advice received from the Occupational Health Adviser;
- Discuss the employee's own feelings about the content of the report and of any recommendations made (a second opinion may be sought, for example from the employee's own GP or Consultant if there is disagreement over the prognosis – costs to be borne by the University);
- Establish the employees' own assessment of his/her condition, whether there has been any improvement and how any treatment is going;
- Discuss any possible return to work, if this has been confirmed as an option by the Occupational Health Physician;
- Look at any possible adaptation of duties or suitable alternative work which may enable return to work for the employee;
- Draw up, in agreement with the employee, a return to work programme with review dates in order to discuss progress and amend if necessary; and
- Consider and if possible agree the next steps including setting another review date if further improvement is likely.

If the prognosis is that the employee can return to work within a reasonable period, arrangements will be made accordingly, including appropriate workplace adjustments where identified and agreed. A phased return to work may be agreed with the employee within an established timescale where appropriate (e.g. a period of part-time working). More permanent changes may be made to the role where necessary and feasible, including redeployment where possible. Any permanent change would be subject to consideration and approval by the Chief Executive's Team.

Physical changes to the workplace may be required and these will be implemented before the employee's return. The employee's terms and conditions will be protected while the necessary adjustments are made.

If a return to work is not an option for the near future, according to the professional medical advice, which has been obtained, then another review meeting should be arranged, to determine if there is to be any future improvement through either further treatment or recuperation.

## **Stage 2 – Review Meeting with Senior Manager**

Progression to Stage 2 shall usually occur when the University does not realistically believe, having followed the previous stages of the procedure, that the employee's health will improve sufficiently in order to resume work and maintain a satisfactory level of attendance.

Stage 2 involves a senior manager who will be a member of the Senior Management Team; they will Chair the meeting. Also present at the meeting will be the manager from meetings at Stage 1, the employee, his or her representative or companion if he/she so chooses, and a Human Resources representative.

The discussion that takes place during a Stage 2 meeting should involve:

- The senior manager's concerns about the employee's attendance/ability to perform/health;
- The professional medical report regarding the employee's state of health and advice given to the employer;
- Any review period set and any improvement in the health of the employee; and
- The employee's feelings regarding his/her own state of health and how he/she feels about the future.

The possible outcomes of this meeting at Stage 2 are:

- To re-initiate a review programme between the employee and his/her manager, if it is felt appropriate;
- To reach agreement that an application for ill health retirement would be appropriate (note that this decision is ultimately made by the Pension provider, not the University);
- To review actions taken on exploring options to adapt duties or to redeploy to other duties and whether any further action can reasonably be taken;
- Discuss any possible return to work, if this has been confirmed as an option by the Occupational Health Adviser;
- Look at any possible adaptation of duties or suitable alternative work which may enable return to work for the employee;
- To decide to progress to Stage 3: Dismissal on the grounds of capability. This means that, having given full consideration to Stages 1 and 2, the employee's employment will be terminated on capability/health grounds.

The manager and HR Officer will hold discussions with the employee about possible ill-health retirement from the relevant Pension Scheme where this is deemed to be appropriate.

Should there be conflicting medical opinion, an independent medical opinion may be sought, depending on the circumstances. Ultimately the University will decide to give weight to the advice it believes may be more valid, having carefully considered the options given.

### **Stage 3 – Dismissal on the grounds of capability**

Where the prognosis is that the employee is unlikely to return to work within an acceptable period, and ill-health retirement is not feasible, the contract of employment will be terminated. In this event, appropriate notice in accordance with the employee's terms and conditions of employment, and outstanding holiday entitlement, will be paid at full salary.

If the employee's employment is terminated they will have the right to appeal this decision in accordance with the Capability Policy and Procedure. In these circumstances, if an employee decides to make an appeal against a dismissal, he/she must specify the clear grounds on which he/she is appealing. Where an employee has been dismissed on the grounds of capability and has decided to appeal against the decision to dismiss, the dismissal takes effect irrespective of the appeal. If the appeal is upheld, the individual will be reinstated.