

CAPABILITY POLICY

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Summary	This policy outlines the rules for managing staff performance and procedures for when performance drops below acceptable levels

Version	Date	Control Reason	Title of Accountable Person for this Version
v2.1	22/11/2013	Formatted Policy	
v3	05/08/2013	Update to job titles	Head of HR
v4	14/03/2014	Policy Review & update	Head of OL&D & HR
v5	28/1/2015	Update to job titles	Head of OL&D and HR
v6	November 2019	Updated Policy	HR Department
Reference Documents		Electronic Locations (Controlled Copy)	Location for Hard Copies

Consultation: Committees / Groups / Individual	Date
Quality and Workforce Committee	December 2019

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1.0 PURPOSE

Having high standards of performance is crucial to our organisation, so we want to do everything we can to help you perform well in your role. This policy sets out the process we will go through with anyone whose performance falls below the required standard.

PC24 will make sure you know what is expected of you and give you the appropriate training and support. Your line manager will also review your performance regularly and if we feel you are not achieving the required level of performance we will aim to manage the situation fairly, reasonably and sensitively.

The procedure provides an opportunity for encouragement, support and assistance by providing:

- A structured and clear path for improvement
- Discussion and consideration of all relevant factors
- An opportunity for your Line Manager and you to work together

The capability policy is to be used in situations concerning a genuine lack of capability and not for conduct issues. If at any point your Line Manager believes that there is an associated conduct issue, then this should be addressed via the disciplinary procedure.

2.0 SCOPE OF THE POLICY

This policy applies to all employees of PC24 and the procedure will be referred to when there is a concern with the ability to do the job role, which has led to a failure to meet the required standards.

3.0 RESPONSIBILITIES

All employees have a responsibility to adhere to the terms and conditions of this policy.

Directors, Heads of Departments and Line Managers who are specified as the responsible people within the policy must ensure the correct procedure is carried out.

Any queries on the application or interpretation of this policy must be discussed with the HR Department prior to any action taking place.

Line Manager Responsibilities

Line Managers have a responsibility to ensure that their new staff members are inducted into the organisation and that all staff members receive both initial and on-going training.

Line managers should ensure that expectations of performance are realistic and the volume of work is reasonable.

Line Managers must ensure that employees have a realistic chance of succeeding in the job with appropriate training and development opportunities identified.

4.0 DEFINITIONS

Capability – means having the capacity, ability and skill required to perform a job role.

Conduct – refers to the manner in which a person behaves, especially in a particular place, situation or job role.

5.0 POLICY PROCEDURES

If we feel that your performance has fallen below the required level then we may invoke the Capability Procedure which has 3 stages.

Informal Review Meeting
Stage 1 - Capability Review Meeting
Stage 2 - Capability Hearing

5.1 Unsatisfactory work performance

Unsatisfactory work performance may be due to the following:

- Lack of aptitude, skill or experience
- Re-organisation or redefinition of role
- Lack of ability and poor overall organisation
- Changes in the nature and allocation of work
- Personal problems

Other matters outside of work may contribute to poor performance and will be dealt with on a case by case basis. We would encourage you to raise any such issues with your Line Manager as soon as possible.

5.2 Informal process

Underperformance may be identified in a number of ways, for example frequent errors or complaints from patients or colleagues, failure to progress or complete tasks, failure to follow through on responsibilities, behaviour that is not in keeping with PC24's values.

It is essential that in all cases underperformance is addressed immediately by your Line Manager in a direct conversation with you.

The manager will clearly state their concerns providing specific examples of under-performance and invite the worker to respond. The

aim of this discussion is to agree a course of action to address your underperformance without further action becoming necessary (see Appendix B Informal Discussion Checklist).

Such conversations are not part of the formal procedure, but your Line Manager must:

- Write to you summarising their concern(s)
- Summarise any action to be taken to support you
- Summarise any other remedial action that has been agreed with you
- Agree timescales for the required improvement – this will usually be a period of three months, although this can be varied if appropriate
- Advise you that a failure to resolve the concerns may require further formal action

If informal action does not bring about an improvement, or the underperformance represents a significant risk to the organisation, the formal procedure may be invoked immediately.

5.3 **Capability Review Meetings**

If you need to attend a formal capability review meeting, we will give you reasonable notice and written notification of the meeting, and you will have the right to be accompanied at this meeting.

You will be advised of the nature of the meeting and will be provided with copies of any relevant documentation which is to be referred to during our discussions.

5.4 **Formal Procedure Stage 1**

Where, following informal management intervention, your performance remains below expectations, your Line Manager will convene a formal meeting. The aim of this meeting will be to achieve agreement to resolve the issues in your performance.

You may be accompanied at the meeting by a work colleague. Your Line Manager may request support from the HR department.

At the meeting your Line Manager should be clear about what areas of your performance require improvement, and should describe the actions taken informally. Any additional concerns regarding your performance will also be discussed.

You may respond to these concerns during the meeting.

Your Line Manager will seek advice from Occupational Health on any health issues that are raised by you during the meeting.

The outcome of this meeting will be the development of a formal action plan (see Appendix C) designed to resolve the underperformance issues within agreed timescales. These may include:

- Counselling
- Additional training
- Coaching
- Closer supervision for a limited period
- Temporary adjustment of duties

The agreed timescale will normally be a period of three months, although this can be varied if appropriate.

A further formal review meeting will be scheduled for the end of the three month period and you will be warned that failure to achieve the necessary improvement may result in ending your employment. The details of the meeting will be confirmed in writing within 5 working days.

5.5 Formal Procedure Stage 2 Capability Hearing

Where there are continued performance concerns, a Stage 2 Capability hearing will be convened. The meeting will be chaired by an independent manager at Head of service level or equivalent and they will be accompanied by a member of the HR Department. You will have the right to be accompanied at this meeting.

The manager will summarise actions taken following the first formal meeting, including evidence of where performance standards are still not being met, and support and/or training provided you. You will be given the opportunity to respond; putting forward any contributory factors to under-performance and/or to disputing your Line Manager's case.

The chair will determine the appropriate action to be taken based on the evidence provided by both parties. Dependent on the individual circumstances, the range of outcomes from this meeting may include:

- An extension of the action plan to improve standards of performance. This may be applied where there has been a management failure to provide support/training or where a short period of support will result in the specified standard of performance being achieved and will normally be for a maximum of up to a further three months.
- Consideration of suitable alternative employment (where such a position exists) within PC24 at a level suited to the individual worker's abilities. Pay protection would not apply where this meant a lowering of pay level.
- Dismissal on the grounds of capability

After the hearing we will write to you within 5 working days, confirming the outcome of the hearing and to let you know the effective date of dismissal or alternative action as appropriate. You will also be informed of your right to appeal against the decision.

5.6 Your Right to Appeal

You are entitled to appeal against any decision about your performance under Stage 2 of the Capability Procedure.

If you want to appeal you should do so in writing, clearly stating the reasons for the appeal, within 10 working days of receiving written confirmation of the decision. The appeal should be made to the Associate Director of Human Resources.

We will then arrange an appeal meeting. This would usually take place within 15 working days of receiving your grounds of appeal letter and will allow a minimum of 5 working days' notice.

The appeal hearing will be heard by a director who has not previously been involved in the case. A member of the HR Department will also be present.

The Director will advise you in writing of the date, time and location of the appeal meeting. They will also explain your right to be accompanied at this meeting.

If the Appeal Manager needs to gather any further information or consider matters discussed at the hearing in more detail they may decide to adjourn the meeting.

There are a number of possible outcomes to the appeal meeting. The appeal manager may decide to:

- Confirm the original decision
- Overturn the original decision
- Propose a different decision

The Appeal Manager would write to you confirming the decision of the appeal meeting as soon as possible usually within 7 days of the meeting. There will be no further right of appeal.

The dismissal date will be determined at the Capability hearing. In the event that the decision to dismiss is revoked at the appeal hearing, re-instatement or re-engagement with continuous service will apply.

If you do not attend your appeal hearing and have not notified the Manager that you will not be attending, it will be assumed that you no longer wish to pursue your appeal.

5.7 Redeployment and Demotion

Redeployment or demotion will be considered prior to any dismissal. However, you do not have any formal right to redeployment/demotion. It will depend on whether a suitable vacancy exists and you have the ability to carry out the duties.

Any offer of redeployment will be made in writing with a specified trial period in the new post, after which your performance will be assessed.

You are not afforded pay protection rights as a result of demotion or redeployment under this policy.

5.8 Disability, ill health and under performance

If your Line Manager considers that your underperformance may be related to a disability or health condition, your Line Manager will investigate, verify and address the circumstances.

This may include a referral to Occupational Health to seek further advice if there is a health-related reason.

This may form part of the informal process. Alternatively this may take place at any time during the formal stages of the procedure.

Consideration will be given as to whether a condition is covered under the Equality Act, 2010, and whether reasonable adjustments can be made to enable you to continue in your role.

5.9 Record of decisions

A record of all capability reviews will be kept on your personnel file.

5.10 Other considerations

Where you have notified us that you are unable to attend any meeting held within this procedure, this will be rearranged on one occasion. The second meeting will go ahead in your absence and a decision will be made.

Where it is decided to end your contract, you will be given the appropriate notice as set out in your contract of employment.

6.0 RELATED POLICIES

Disciplinary Policy PC24POL

Equality and Diversity Policy PC24POL

7.0 MONITORING COMPLIANCE

The HR Department will monitor and report all instances of this policy being enacted. The HR department will also monitor timescales to ensure they are met.

8.0 INFORMATION, INSTRUCTION AND TRAINING

All managers will be provided with the relevant HR support when applying this policy.

All staff members will be made aware of this policy at induction.

9.0 EQUALITY AND HEALTH INEQUALITIES

PC24 is committed to an environment that promotes equality and embraces diversity in its performance as an employer and service provider. It will adhere to legal and performance requirements and will maintain equality and diversity principles through its policies, procedures and processes. This policy has been implemented with due regard to this commitment. To ensure that the implementation of this policy does not have an adverse impact in response to the requirements of the Equality Act 2010 this policy has been screened for relevance during the policy development process and a full equality impact analysis conducted where necessary. PC24 will take remedial action when necessary to address any unexpected or unwarranted disparities and monitor practice to ensure that this policy is fairly implemented

10.0 PERSONAL INFORMATION

This policy complies with the Data Protection Act 2018; therefore no Privacy Impact Assessment is necessary.

11.0 MAIN REFERENCES

Equality Act 2010.

Employment Act 2008

Code of Practice on Disciplinary and Grievance Procedures, ACAS, 2015

Disciplinary and Grievances at Work, The ACAS Guide, ACAS, 2019

Employment Rights Act 1996



Equalities and Health Inequalities – Screening Tool

Version number: V1

First published: November 2016

To be read in conjunction with Equalities and Health Inequalities Analysis Guidance, Quality & Patient Safety Team, Urgent Care 24, 2016.

Prepared by: Quality & Patient Safety Team.

Introduction

The purpose of this Screening Tool is to help you decide whether or not you need to undertake an Equality and Health Inequalities Analysis (EHIA) for your project, policy or piece of work. It is your responsibility to take this decision once you have worked through the Screening Tool. Once completed, the Head of your SDU or the Quality & Patient Safety Team will need to sign off the Screening Tool and approve your decision i.e. to either undertake an EHIA or not to undertake an EHIA.

The Quality and Patient Safety Team can offer support where needed. It is advisable to contact us as early as possible so that we are aware of your project.

When completing the Screening Tool, consider the nine protected characteristics and how your work would benefit one or more of these groups. The nine protected characteristics are as follows:

1. Age
2. Disability
3. Gender reassignment
4. Marriage and civil partnership
5. Pregnancy and maternity
6. Race
7. Religion and belief
8. Sex
9. Sexual orientation

A number of groups of people who are not usually provided for by healthcare services and includes people who are homeless, rough sleepers, vulnerable migrants, sex workers, Gypsies and Travellers, Female Genital Mutilation (FGM), human trafficking and people in recovery. Urgent Care 24 will also consider these groups when completing the Screening Tool:

The **guidance** which accompanies this tool will support you to ensure you are completing this document properly. It can be found at: <http://extranet.urgentcare24.co.uk/>

Equality and Health Inequalities: Screening Tool

A	General information		
A1	Title: What is the title of the activity, project or programme? Capability Policy		
A2.	What are the intended outcomes of this work? To define the rules and procedures that must be followed when an issue with staff capability has been identified		
A3.	Who will be affected by this project, programme or work? Staff members		
B	The Public Sector Equality Duty		
B1	Could the initiative help to reduce unlawful discrimination or prevent any other conduct prohibited by the Equality Act 2010? If yes, for which of the nine protected characteristics (see above)?		
	Yes		
	Summary response and your reasons: Procedures and safeguards are in place to ensure that any capability issues identified that may be related to any protected characteristic are identified and mitigated against		
B2	Could the initiative undermine steps to reduce unlawful discrimination or prevent any other conduct prohibited by the Equality Act 2010? If yes, for which of the nine protected characteristics? If yes, for which of the nine protected characteristics?		
		No	
	Summary response and your reasons: Procedures and safeguards are in place to ensure that any capability issues identified that may be related to any protected characteristic are identified and mitigated against		
B3	Could the initiative help to advance equality of opportunity? If yes, for which of the nine protected characteristics?		
	Yes		
	Summary response and your reasons: Procedures and safeguards are in place to ensure that any capability issues are dealt with fairly and consistently		
B4	Could the initiative undermine the advancement of equality of opportunity? If yes, for which of the nine protected characteristics?		
		No	
	Summary response and your reasons: Procedures and safeguards are in place to ensure that any capability issues are dealt with fairly and consistently		

B 5	Could the initiative help to foster good relations between groups who share protected characteristics? If yes, for which of the nine protected characteristics?		
		No	
	Summary reasons: Issues arising that may be looked at under this policy are managed on an individual basis		
B 6	Could the initiative undermine the fostering of good relations between groups who share protected characteristics? If yes, for which of the nine protected characteristics?		
		No	
	Summary response and your reasons: Issues arising that may be looked at under this policy are managed on an individual basis		
C	The duty to have regard to reduce health inequalities		
C 1	Will the initiative contribute to the duties to reduce health inequalities?		
	Could the initiative reduce inequalities in access to health care for any groups which face health inequalities? If yes for which groups?		
		No	
	Summary response and your reasons: The procedures within the policy ensure that, where health is a factor in capability, they are investigated and mitigated as appropriate through occupational health or other reasonable support		
C 2	Could the initiative reduce inequalities in health outcomes for any groups which face health inequalities? If yes, for which groups?		
		No	
	Summary response and your reasons: The procedures within the policy ensure that, where health is a factor in capability, they are investigated and mitigated as appropriate		
D	Will a full Equality and Health Inequalities Analysis (EHIA) be completed?		
D 1	Will a full EHIA be completed? Bearing in mind your previous responses, have you decided that an EHIA should be completed? Please see notes. ¹ Please place an X below in the correct box below. Please then complete part E of this form.		

¹ Yes: If the answers to the previous questions show the PSED or the duties to reduce health inequalities are engaged/in play a full EHIA will normally be produced. No: If the PSED and/or the duties to reduce health inequalities are not engaged/in play then you normally will not need to produce a full EHIA.

			No
E	Action required and next steps		
E 1	If a full EHIA is planned: Please state when the EHIA will be completed and by whom. Name: Date:		
E 2	If no decision is possible at this stage: If it is not possible to state whether an EHIA will be completed, please summarise your reasons below and clearly state what additional information or work is required, when that work will be undertaken and when a decision about whether an EHIA will be completed will be made. Summary reasons: Additional information required: When will it be possible to make a decision about an EHIA?		
E 3	If no EHIA is recommended: If your recommendation or decision is that an EHIA is not required then please summarise the rationale for this decision below. Summary reasons:		

F	Record Keeping		
Lead originator:	P Mullen	Date:	Nov 2019
Director signing off screening:		Date:	
Directorate:		Date:	
Screening published:		Date:	

