

POLICY FOR MANAGING CAPABILITY

1. Scope and Purpose

- 1.1 This policy applies to all employees other than Senior Post holders (as defined in The College's Articles of Government) and probationary employees; the probation policy sets out the arrangements for probationary employees.
- 1.2 The purpose of this policy is:
 - To help and encourage employees to achieve and maintain acceptable standards of performance
 - To ensure that fair, consistent and reasonable action is taken where acceptable standards of job performance are not maintained
 - To ensure consistent and fair treatment for all in relation to action taken in response to unacceptable performance
- 1.3 This policy is independent of The College's Disciplinary Policy and Procedure which deals with matters of conduct.
- 1.4 This policy is not intended to deal with issues of performance falling below an acceptable standard due to the ill health of an employee. These situations will be dealt with under The College's Absence Management Policy.

2. General Guidance

- 2.1 Employees will have the right to be accompanied by a workplace colleague or union representative of their choice at all formal stages of this policy, and at any investigation meeting.
- 2.2 Line managers must consult the HR Department prior to any action being taken under this policy.
- 2.3 A copy of the Capability Policy is available to all employees from HR. An explanation and copy of the Policy will be given to new staff at the induction with the HR representative.
- 2.4 Those involved in capability issues should remember that the vast majority of employees make an effort to meet the standards expected of them at work.

3. General Principles

- 3.1 In most cases where a capability matter arises it should be resolved at an early stage through informal discussion between the employee and their line manager.
- 3.2 Matters should be dealt with within a reasonable timeframe whilst ensuring that the employee has the necessary support to improve performance.
- 3.3 At every stage the employee will be made fully aware of the nature of their questionable work performance and have the opportunity to state his or her case before any decisions are made.
- 3.4 No formal capability action will be taken without a capability hearing.
- 3.5 Although normal performance standards apply, no formal action will be taken against a recognised Trade Union representative until the circumstances of the case and representation have been discussed with the full-time Officer of the Trade Union concerned.
- 3.6 In the interest of ensuring that capability matters are resolved as speedily as possible, time limits are given for appropriate stages in this policy. These are for guidance. If it is not practicable to adhere to these time limits, they may be amended, ideally by mutual agreement. Due regard will be given to the personal circumstances of all parties involved.
- 3.7 The formal Stages Two and Three as detailed in paragraph 6 below may be missed out only where serious incapability is occurring.

4. **Disability Discrimination Act 1995 as Subsequently Amended**

Concerns about capability should not be confused with disability. Where employees become disabled during their employment it is important to ensure that every effort should be made to retain them in their original job, or redeploy them to a suitable alternative post, in line with the requirements of the Disability Discrimination Act 1995. Recourse to the Capability Policy should only take place when actions to deal with disability have been exhausted. Cases of disability should be dealt with under The College's Absence Management Policy.

5. **Responsibilities of Management**

- 5.1 It is the responsibility of Line Managers to ensure that each member of their team is familiar with the standards of performance expected of them by:
- a) Explaining fully the requirements of the job
 - b) Providing training as necessary to develop skills and knowledge required for the job
 - c) Providing regular appraisal and feedback on each individual's progress
- 5.2 Employees will be given all reasonable opportunities to improve performance through encouragement and relevant training.
- 5.3 If the employee's performance fails to improve, or if serious or gross incompetence occurs, it is the responsibility of management to initiate formal action under this policy.

6. **Stages of the Policy**

6.1 **Stage One: Counselling and Guidance Meeting**

- 6.1.1 The Stage One Counselling and Guidance meeting is **not** part of the formal stages of this policy. This informal stage is intended to resolve minor issues of concern at an early stage thus reducing the need for formal action. There is no appeal against such action.
- 6.1.2 The manager carrying out the counselling will confirm with the employee what the problem(s) are, identify and agree what action needs to be taken and set a reasonable timescale for action. An example of an Action Plan is contained in Appendix One. The manager will advise the employee what will happen if the required standard is not met and agree a review date with the employee to assess whether there has been an improvement in their performance.

Stages Two to Four constitute the formal action under the Capability Policy

6.2 **Stage Two Hearing**

- 6.2.1 If there is evidence of unsatisfactory work performance the employee will be advised that a capability hearing will be arranged. The hearing will be chaired by their manager. A Written Warning may be given at this stage which will detail the recognised standard expected and the action to be taken to achieve this standard.

6.3 **Stage Three Hearing**

- 6.3.1 If at the end of the review period under Stage Two the employee's performance remains unsatisfactory (or in the event of further unsatisfactory performance) the employee will be required to attend a Capability Hearing under Stage Three of this Policy. A Final Written Warning may be given at this stage which will detail the recognised standard expected and the action to be taken to achieve this standard.

6.4 **Stage Four Hearing**

- 6.4.1 If the employee has failed to reach the recognised standard of performance required of them, they will be called to a formal Stage Four Hearing chaired by an Executive member. The appropriate Senior Management Team (SMT) member will present the case alleging incapability and the employee will be given an opportunity to answer the case and present their own case. If the recommendation by the Chair is that the employee should be dismissed on grounds of capability, the employee will be informed of this in writing and given **five working days** notice to attend a separate meeting with the Principal. At this meeting they will be given a full opportunity to present their case, as will the appropriate SMT member. If the employee is dismissed by the Principal, they will be advised of their right to appeal to the Board of the Corporation against this decision.

7. Appeals Against Action Under This Policy

An employee has the right to appeal against any action taken under this policy. Appeals shall be against the perceived unfairness of the judgement, the severity of the action, procedural irregularities or because of new evidence coming to light.

- 7.1 Appeals against action short of dismissal shall be made in writing to the Executive Director of Human resources stating the grounds for the appeal. The Executive Director of Human Resources must receive it within **five working days** of receipt by the employee of the letter notifying them of the decision. Appeals against dismissal must be made in writing to the Clerk to the Corporation within **ten working days** of the receipt of the letter notifying the employee of the action taken. The Clerk to the Corporation will then arrange for an Appeal Panel of the Corporation to hear the appeal.

This policy will be reviewed by the JNCC by June 2008.

This policy and procedure was adopted by The Bournemouth & Poole College on 19 October 2006.

Signed _____ Name _____
On behalf of the Corporation Bernard Vaughan

Date _____

Signed _____ Name _____
On behalf of UNISON Please print

Date _____

Signed _____ Name _____
On behalf of UCU Please print

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Signed _____ Name _____
On behalf of ACM Please print

Date _____