

## CAPABILITY POLICY AND PROCEDURE

### 1 Introduction

- 1.1 Intu will always endeavour to ensure that employees achieve and maintain a high standard of performance in their work. To this end, intu will establish standards, monitor performance, set objectives and provide individuals with appropriate training and support to meet those standards.
- 1.2 There will be times when employees do not perform at the levels required by the company. In dealing with cases of poor performance, we will distinguish between those where the reason is within the individual's control (e.g. negligence, lack of application or attitudinal problems) and those where the reason is insufficient capability (e.g. health, aptitude or the changing nature of the job). In the former case, the company's Disciplinary Procedure will be followed. In the latter, the capability procedure outlined below will be adopted.
- 1.3 A reason for dismissal on the grounds of diminished and/or insufficient capability generally falls into one of these categories:
- Poor performance due to insufficient skill or aptitude
  - Diminishing physical ability
  - Ill-health. This includes short-term or long-term sickness absence
  - Lack of the required qualifications to do the job because the individual has failed to obtain them
  - Poor attendance

### 2 Informal Meeting

- 2.1 When it first becomes clear to a supervisor or manager that an employee's performance is below acceptable levels, an informal meeting should be held with them to try to establish the reason or reasons. Any explanation given will, where necessary, be investigated. The possible outcomes include:
- a) The manager decides that the expected standard(s) are not reasonably attainable. The standards will then be reviewed.
  - b) The employee's insufficient performance/lack of capability emanate from a change in company standards. The new standards will be explained to the employee, with training offered as appropriate, and targets for improvement set.
  - c) The employee's insufficient performance/lack of capability relates to their personal life. The employee will be offered appropriate support and reminded of the counselling and helpline numbers. Targets for improvement will be set.
  - d) The employee's insufficient performance is related to a lack of aptitude. The employee will be provided with additional support, training and/or coaching, and targets for improvement will be set.
  - e) The employee has diminishing physical ability, or is suffering from a medical condition which affects their performance but has not resulted in a poor attendance record. The case may be referred to Human Resources and medical advice sought.

- f) The employee's performance problems are related to their state of health, which has resulted in frequent short-term sickness absence or a longer period or periods of absence. The case may be referred to Human Resources and medical advice sought.
- g) The employee is unable to perform to the standards required because they have failed to achieve a required qualification. The manager may consider whether a re-sit is possible before deciding what action to take. Where the qualification is mandatory and cannot be re-sat, the company will consider whether there are alternative vacancies that the employee would be competent to fill. If there are, the employee will be given the option of accepting such a vacancy or being dismissed.
- g) If the employee's poor performance results from or involves misconduct the Disciplinary Procedure will be invoked.

### **3 Procedure - possibilities b) to d)**

- 3.1 If one or more of possibilities b) to d) apply, the employee's performance will, following the informal discussion, be monitored thereafter for an appropriate period of time. The length of time and manner of monitoring will be specified by the manager after consultation with the individual.
- 3.2 A meeting will be held at the end of the review period by the manager or supervisor, to assess whether suitable progress has been made. The employee will have the right to be accompanied. The following outcomes will be possible:
  - If the required improvement has been made, the employee will be told that that is the case and encouraged to maintain the improvement.
  - If some improvement has been made but the required standard has not yet been met, the manager or supervisor may continue with the informal process or implement a formal capability review with the department manager.
  - If there has been no discernable improvement, a formal capability review will be implemented with the department manager.
- 3.3 At a capability review meeting, the manager will review the facts of the case, and the individual will be invited to give their views before any decision is taken. The individual will have the right to be accompanied. Where performance is below acceptable standards despite informal action, formal capability meetings will utilise a system of warnings with targets for improvement, as follows:
  - 3.3.1 **Written Warning**

A written warning will record the reason for the warning given, the improvements in performance required to be achieved and maintained, the timescale for improvement, the consequence of failure to respond as required, that it is the first stage of the formal capability procedure and the right of appeal. A copy of the warning will be given to the employee, and a copy placed on their personnel file.

### 3.3.2 Final Written Warning

If there is a failure to respond to a first written warning and performance does not improve within the specified timescale, the next stage will be a final written warning. This will record the reason for the warning given, details of the previous warning, the improvements in performance required, the timescale for improvement, that the consequence of failure to respond as required will lead to dismissal, and the right of appeal. A copy of the warning will be given to the employee, and a copy placed on their personnel file.

### 3.3.3 Dismissal

This will apply where the capability procedure has failed to elicit acceptable and/or sustained standards of performance and the employee continues to fail to respond to previous warnings. The employee will be provided with written reasons for dismissal, the date on which the employment is terminated, their notice entitlement and the right of appeal.

3.4 When contemplating dismissal, the manager will give consideration to whether there are any alternative vacancies that the employee would be competent to fill.

3.5 A transfer or demotion may be appropriate.

## 4 Procedure – Diminishing physical ability

4.1 Where possibility e) applies, and the employee has diminishing physical ability, or is suffering from a medical condition which affects their performance but has not resulted in poor attendance, the case will be referred to Human Resources for review and a medical report from the employee's GP or specialist will be requested. The individual may also be referred to an Occupational Health adviser for an assessment. Where an employee refuses to co-operate with such requests, the company will make any decisions based on the information it has available.

4.2 Consideration should always be given to whether poor performance may be related to diminishing physical ability or a disability and, if so, whether there are reasonable adjustments that could be made to the individual's working arrangements, including changing their duties, their hours, or providing additional equipment or training. A transfer to an alternative position or reduced responsibility or hours may result in pay and benefits being reduced accordingly.

4.3 Once the relevant medical information has been received, a review meeting will be arranged to cover the following:

- A review of any medical condition and the treatment recommended/being undertaken
- Anything that the company can do to help
- The setting and agreement of a reasonable period of time for the employee to reach the required performance standard(s), and an appropriate monitoring system devised for use during that period.

4.4 At the end of the review period, the manager will assess whether suitable progress has been made in consultation with the employee. If performance is still below acceptable levels, a capability review meeting as per para 3.3 above will be held. In cases of diminishing physical ability, warnings will not be issued, but there

will be a system of 'targets for improvement' which work in the same way. If a first written target is not met, the next stage would be a final written target. Where a final written target is not met, the next stage would be dismissal.

## 5 Procedure – ill-health and absence

5.1 Where possibility f) applies, and an employee's performance problems are related to their state of health, and this has resulted in periods of sickness absence, a distinction will be made between issues of short-term absence and long-term absence. It will be the company's decision which procedure to apply having regard to the circumstances of each employee.

5.2 Consideration should always be given to whether there are reasonable adjustments that could be made to the individual's working arrangements, including changing their duties, their hours or providing additional equipment or training. A transfer to an alternative position or reduced responsibility or hours may result in pay and benefits being reduced accordingly.

### 5.3 Short Term Absences

5.3.1 Where an employee's attendance record (including combinations of short-term and long-term absences) is significantly worse than those of comparable employees, and available data makes it clear that frequent absences are the result of a recurrent medical condition, the employee will be invited to attend a review meeting. The employee has the right to be accompanied. At this meeting the manager will:

- Clarify the frequency of, and reasons for, absence, and ensure that the employee is aware that his/her absence record is giving cause for concern
- Remind the employee about the counselling service if applicable
- Request a medical report from the employee's GP or specialist. The employee may also be referred to Occupational Health. If an employee refuses to cooperate with such requests, the company will make decisions based on the information available.
- Inform the employee that persistent short-term absences are unacceptable and put continued employment at risk
- Give consideration to any ways in which the company can help alleviate the problem(s).
- Set a target to be achieved and a reasonable period of time over which the employee's attendance can be assessed.

5.3.2 At the end of the review period, a further meeting will be held to assess whether suitable progress has been made. Where attendance is still below acceptable levels, the company will consider whether to proceed to termination of employment on the grounds of ill-health and/or unacceptable absence.

5.3.3 If at any stage during this procedure, following investigation, the manager feels that the employee's absences are not due to an underlying medical condition, the Disciplinary Procedures may be invoked.

### 5.4 Long Term Absences

- 5.4.1 When an employee is absent from work for a period of four weeks or more, the absence will be classified as long term. In such circumstances, the company will seek written consent from the employee to contact the employee's GP or specialist for a medical report. The employee may also be referred to Occupational Health. Where an employee refuses to co-operate with such requests, the Company will make decisions based on the information available.

On receipt of medical reports (or more immediately if consent is withheld) the company may require the employee to attend a meeting at which management will:

- Clarify or seek to identify as appropriate the reasons for the employee's absence and the likely duration
- Offer support through counselling services available if appropriate.
- Discuss return to work options, such as temporary change of duties or working hours.

In addition, where appropriate the company may

- Inform the employee that long-term absence due to ill-health may put his/her employment at risk.
- Explain the procedure to terminate employment on the grounds of ill health. A letter will be sent to the employee confirming the facts and the action to be taken.

## **6 Appeals**

- 6.1 In the event of a termination on the grounds of insufficient capability or ill-health retirement, an employee may appeal in writing to the HR Department within 14 days of receiving the termination letter - stating the reasons for the appeal. The appeal will then be heard by an independent senior manager in accordance with the appeals procedure contained in the Disciplinary Procedure (whether this is classed as a capability or disciplinary case). The decision at this stage is final. This right also applies to 'actions short of dismissal' such as warnings, transfer, demotion and alteration of duties.