

ILL-HEALTH PROCEDURE

1. About this procedure

- 1.1 The primary aim of this procedure is to provide a framework within which managers can work with employees who are absent from work or who are unable to meet the requirements of their role owing to ill health, which may be as a result of sickness or accident.
- 1.2 If an employee experiences difficulties performing his or her role owing to ill health, in addition to the other procedures set out in this policy the University may take various courses of action including but not limited to:
 - (a) Informal support
 - (b) Greater supervisory assistance
 - (c) Reviewing workload and targets
 - (d) Retraining or additional training
 - (e) Changes to working arrangements
 - (f) Transfer to different work
- 1.3 All steps taken under this policy by the University will be carried out in accordance with the University's principles relating to equality and academic freedom, as enshrined in the Charter of Incorporation and the principles of fairness, reasonableness and natural justice.
- 1.4 This procedure applies to all employees regardless of length of service. It does not apply to agency workers or self-employed contractors.
- 1.5 This procedure has been implemented following consultation with the University and College Union and the University of Reading Staff Forum.
- 1.6 This procedure does not form part of any employee's contract of employment and it may be amended at any time. Amendments will be subject to consultation and negotiation with the University and College Union and the University of Reading Staff Forum and the review and approval of the University's Council. Minor amendments or those necessitated by a change in the law will not be subject to this process. This procedure, including any time limits, may be varied as appropriate and reasonable in any case.
- 1.7 This procedure will be reviewed biennially with the University and College Union and the University of Reading Staff Forum and approved by the University's Council.
- 1.8 In this policy, reference to a member of the Academic Staff means a Lecturer, Associate Professor or Professor.

2. Confidentiality

- 2.1 It is the University's aim is to deal with ill health and capability matters sensitively and with due respect for the privacy of any individuals involved. All parties must treat as confidential any information communicated to them in connection with a matter which is subject to this procedure, subject to the need to seek appropriate advice and guidance.
- 2.2 It is not the University's normal procedure for meetings or hearings to be tape recorded by either party unless there are exceptional reasons why this should be considered. However, from time to time there may be a request to tape record a hearing. The decision to do so will be taken by the person chairing the meeting in consultation with HR and in advance of the meeting. A recording may be made only where all parties agree to the use of tape recording. Minutes will be prepared of formal meetings and a copy of those minutes will be provided to the employee attending the meeting.
- 2.3 You will normally be told the names of any witnesses whose evidence is relevant to your capability or ill health meeting, unless the person chairing the meeting exceptionally and reasonably believes that a witness's identity should remain confidential. There should be no normal expectation that the identity of witnesses will be kept confidential and witnesses should understand that evidence provided by them will, other than in exceptional circumstances, be provided to the employee who is subject to ill health or capability proceedings.

3. Disabilities

- 3.1 The University is committed to complying with its obligations under the Equality Act 2010. If you are disabled within the meaning of the Equality Act 2010, reasonable adjustments will be considered and made as appropriate.
- 3.2 In applying this procedure, consideration will be given that your attendance or performance may be related to a disability and, if so, whether there are reasonable adjustments that could be made to your working arrangements, including changing your duties or providing additional equipment or training.
- 3.3 In appropriate cases, we may consider making further adjustments to this procedure to accommodate disability and ill-health. Such adjustments may include extending time limits, permitting you additional support in meetings or arranging meetings away from the campus.
- 3.4 You are encouraged to contact your line manager or Human Resources to discuss or inform us of any medical condition you consider relevant. Such information will be treated sensitively and confidentially by those who need to know it.

4. Right to be accompanied at hearings

- 4.1 You may bring a companion to any capability, ill health or appeal hearing under this procedure. Your companion may be either a trade union representative or a colleague. You must tell the Manager conducting the hearing who your chosen companion is, in good time before the hearing, which will normally be five working days before the hearing.
- 4.2 A companion is allowed reasonable time off from duties without loss of pay but no-one is obliged to act as a companion if they do not wish to do so.
- 4.3 If your companion is unavailable at the time a meeting is scheduled and will not be available for more than five working days afterwards, the University may ask you to choose someone else.

- 4.4 The University may, at its discretion, allow you to bring a companion who is not a colleague or union representative (for example, a member of your family), for example if this will help overcome a disability, or if you have difficulty understanding English.
- 4.5 During a hearing your companion may make representations and ask questions but he or she cannot answer questions on your behalf. You may talk privately with your companion at any time during the meeting.

5. Medical examinations

- 5.1 The University may, at any time in operating this policy, require you to consent to a medical examination by Occupational Health and/or a doctor nominated by the University, at its expense. This may also involve seeking appropriate input, with your agreement, from any medical practitioners from whom you are receiving or have received treatment. Any referral to Occupational Health will be treated sensitively and confidentially by those who need to know of it.
- 5.2 You will be asked to agree that any report produced in connection with any such examination may be disclosed to the University and that we may discuss the contents of the report the relevant doctor. You will have the opportunity to comment on this report before it is sent to the University, if you elect to do so at the time the referral to Occupational Health is made.
- 5.3 If you do not agree to undergo a medical examination and/or to otherwise provide the University with information from medical experts on your ill health, where this is considered necessary by the University, the University may make decisions based on the incomplete information available to it.

6. Ill Health Retirement

- 6.1 Where it is appropriate to do so, the University will consider and discuss with you the option of seeking ill health retirement. However, whilst the University will support appropriate applications for ill health retirement, it is not the University that decides whether such applications are granted.

7. Capability

- 7.1 In this procedure, capability means both intermittent absence for ill health and poor performance as a result of ill health:
- Intermittent absence for ill health involves a number of periods of absence of typically one or two days at a time. Where appropriate your absence will be investigated (in accordance with paragraph 9) and the reason for the absences, whether there is any underlying cause (medical or otherwise) and whether further absences are likely will be considered. If it is concluded that your level of absence is unacceptable you may be invited to attend a capability hearing in accordance with this policy.
 - Poor Performance as a result of **ill health** occurs where, as a result of your ill health, you are unable to fulfil the requirements of your role and/or otherwise perform your role at the required standards. In these circumstances, you may be invited to attend a capability hearing in accordance with this policy.

8. Informal Procedure

- 8.1 Capability issues and concerns arising from intermittent absence and ill health can often be resolved informally between you and your line manager. These discussions should be held in private and without undue delay whenever there is cause for concern and to enable you to improve your attendance and/or performance. You will be given such guidance as is reasonable and appropriate about the steps you can take to ensure your attendance and/or performance meets the standards expected of you. A note of any informal discussions, including any guidance given, may be made.
- 8.2 Formal steps will be taken under this procedure if the matter is not resolved, or if informal discussion is not appropriate (for example, because of the seriousness of the matter).

9. Investigations

- 9.1 Investigations can be commenced by University managers (usually the manager of the person subject to the procedure), Human Resources or as a result of a recommendation arising from another procedure (such as the grievance procedure).
- 9.2 The purpose of an investigation is for the University to establish a fair and balanced view of the facts before deciding whether to proceed with a capability hearing. The amount of investigation required will depend on the nature of the allegations and will vary from case to case. It may involve interviewing and taking statements from you and any witnesses, and/or reviewing relevant documents. The Human Resources Department will usually appoint an Investigating Officer to carry out the investigation.
- 9.3 Investigative interviews are solely for the purpose of fact-finding and no decision will be taken until after a capability hearing has been held. The investigation interview will be attended by the Investigating Officer and a representative of Human Resources. The Investigating Officer may attend any subsequent capability hearing to present his or her investigation or to answer questions on it. However, he or she will not decide the case against you.
- 9.4 You may, if you wish, bring a companion to an investigative interview under this procedure as set out in paragraph 4.
- 9.5 All employees must co-operate fully and promptly in any investigation. This will include providing the names of any relevant witnesses, disclosing any relevant documents and attending investigative interviews if required.

10. Notification of a capability hearing

- 10.1 Following any investigation, if there are grounds for taking formal action, you will be required to attend a capability hearing. You will be informed in writing of the concerns about your attendance and/or performance, the basis for those concerns, and the potential outcomes of the hearing. You will also receive:
- (a) a summary of relevant information gathered during the investigation;
 - (b) a copy of any relevant documents which will be used at the capability hearing; and

- (c) a copy of any relevant witness statements, except where a witness's identity is to be kept confidential, in which case you will be given as much information as possible whilst maintaining confidentiality.
- 10.2 You will be given written notice of the date, time and place of the capability hearing and who will be attending it. The hearing will be held as soon as reasonably practicable. You will be given a reasonable amount of notice of the hearing, which will usually be no less than 10 working days.
- 10.3 The method of communications regarding hearings and outcomes will be agreed with you. In the absence of agreement, the preferred method of communication will be by email to your University email account.

11. Procedure at Capability Hearings

- 11.1 Capability hearings may arise as a result of intermittent absence and/or poor performance as a result of ill-health.
- 11.2 You must make every effort to attend the hearing, and failure to attend without good reason may be treated as misconduct. If you fail to attend without good reason, or are persistently unable to do so (for example for health reasons), the University may have to take a decision based on the available evidence. You will be informed of this in writing.
- 11.3 The hearing will be chaired by an appropriate manager who will be more senior than you in accordance with the following table:

	STAGE 1 OR STAGE 2 CAPABILITY MEETING	STAGE 3 CAPABILITY MEETING
Staff in grades 1-5	Line Manager <u>plus</u> support from HR	Line Manager or other appropriate manager (with sufficient seniority) <u>and</u> an HR representative
Professional and managerial staff in grades 6-9	Line Manager <u>plus</u> support from HR	Head of Function (in Services) or Head of School (in Schools) <u>and</u> another appropriate manager <u>plus</u> support from HR
Academic Staff in grades 6-9	Head of School <u>plus</u> support from HR	Head of School <u>and</u> another appropriate manager <u>plus</u> support from HR

- 11.4 Where dismissal may be the sanction, if you consider that the matter that is the subject of the sickness procedure raises questions of academic freedom, you may make an application to the Vice-Chancellor. The Vice-Chancellor will consider your application and, if he or she considers that there are questions of academic freedom, he or she will direct that the "other appropriate manager" on the panel shall be an independent person from a list of such independent persons which shall be reviewed and agreed with the University and College Union each year.

- 11.5 You or the Investigating Officer may ask that relevant witnesses appear at the hearing, which will be permitted provided that it is reasonable for such witnesses to appear and provided you or the Investigating Officer give the University sufficient advance notice to arrange their attendance, which will normally be five working days before any hearing. You and the Investigating Officer will be given the opportunity to respond to any information given by a witness. In appropriate circumstances, where the Chair of the hearing/Panel decides that it is reasonable for you to do so and/or that a fair hearing could not be held otherwise, you and/or the Investigatory Officer may be permitted to ask questions directly of the witness. Aggressive or adversarial questions or questioning will not be allowed.
- 11.6 The capability hearing is to determine whether you have met the required standards of attendance and/or performance and will usually involve:
- (a) Setting out the required standards of attendance or performance that it is suggested you may have failed to meet, and going through any relevant evidence that has been gathered. The Investigating Officer may be present at the hearing and you will have the opportunity to ask questions of clarification concerning the process and findings of the investigation.
 - (b) Allowing you to ask questions, present evidence, call witnesses, respond to evidence and make representations.
 - (c) Establishing the likely causes of poor attendance or performance including any reasons why any measures taken so far have not led to the required improvement.
 - (d) Identifying whether there are further measures that can be taken, such as additional training or supervision, which may improve attendance or performance.
 - (e) Where appropriate, discussing and setting targets for improvement and a time-scale for review.
 - (f) If dismissal is a possibility, establishing whether there is any likelihood of a significant improvement being made within a reasonable time and whether there is any practical alternative to dismissal, such as redeployment.
- 11.7 The Manager/Panel may adjourn the capability hearing if it is determined that any further investigation is required. You will be given a reasonable opportunity to consider any new information obtained before the hearing is reconvened.
- 11.8 You will be informed in writing of the decision and the reasons for it, usually within 10 working days of the capability hearing.

12. Capability Sanctions

- 12.1 Following a capability meeting as set out in paragraph 11, the University may issue you with a capability sanction.
- 12.2 **Stage 1: first written warning:** If it is determined that your attendance and/or performance is unsatisfactory, you will be given a first written warning.
- 12.3 Your attendance and/or performance will be monitored during the review period set out in the first written warning and you will be notified, in writing, at the end of it: :
- (a) if your line manager is satisfied with your attendance and/or performance, that no further action will be taken;
 - (b) if your line manager is not satisfied, that the matter may be progressed to a Stage 2 capability hearing; or

- (c) if your line manager considers that there has been a substantial but insufficient improvement, that the review period may be extended.
- 12.4 **Stage 2: final written warning** if your attendance and/or performance does not improve within the review period set out in a first written warning, following a further meeting as set out in paragraph 7, the University may decide to give you a final written warning.
- 12.5 Your attendance and/or performance will be monitored during the review period set out in the final written warning and you will be notified, in writing, at the end of it:
- (a) if your line manager is satisfied with your attendance and/or performance, that no further action will be taken;
 - (b) if your line manager is not satisfied, that the matter may be progressed to a Stage 3 capability hearing; or
 - (c) if your line manager considers that there has been a substantial but insufficient improvement, that the review period may be extended.
- 12.6 **Stage 3: dismissal or redeployment:** The University may decide to hold a Stage 3 capability hearing if it has reason to consider that:
- (a) your attendance and/or performance has not improved sufficiently within the review period set out in a final written warning;
 - (b) your attendance and/or performance is unsatisfactory while a final written warning is still active; or
 - (c) your attendance and/or performance is wholly or partially caused by ill health or the result of an accident and the University has reasonable grounds to believe your performance will not improve to the required standards.
- 12.7 Following the Stage 3 hearing, if it is determined that your attendance and/or performance is unsatisfactory, a range of options may be considered, including:
- (a) Dismissal;
 - (b) Redeployment to another suitable job at the same or (if you agree) a lower grade;
 - (c) Extending an active final written warning and setting a further review period (in exceptional cases where we believe a substantial improvement is likely within the review period); and/or
 - (d) Giving a final written warning (where no final written warning is currently active).
- 12.8 Dismissal will normally be with full notice or payment in lieu of notice.
- 12.9 Following the period of review, on assessment of your performance during it, your line manager or another appropriate manager may decide to move to the next stage, as set out above. If there is a clear decline in your performance, your line manager or another appropriate manager may exceptionally decide to move to the next stage before the expiry of the review period.

13. The effect of a warning

- 13.1 Written warnings will set out:
- (a) the areas in which you have not met the required attendance and/or performance standards;
 - (b) targets for improvement;
 - (c) any measures, such as additional training or supervision, which will be taken with a view to improving attendance and/or performance;
 - (d) a period for review; and

- (e) the consequences of failing to improve within the review period, or of further unsatisfactory attendance and/or performance.
- 13.2 After the active period, the warning will remain permanently on your HR file but will be disregarded in deciding the outcome of future formal proceedings.

14. Long term Sickness Absence

- 14.1 For the purpose of this policy long term sickness absence is defined as continuous absence of a month or more within a 'rolling' period of one year. Your line manager will need to address the effect that your absence is having on the smooth running of the school or service, as during long term sickness absence it is likely that significant operational difficulties will arise.
- 14.2 In these circumstances the University will normally refer you to occupational health (as set out in paragraph 5) in order to obtain clear medical advice regarding your condition and prognosis. The University may seek further medical advice from your own doctors or a specialist, either on the advice of occupational health or if it is otherwise considered appropriate.
- 14.3 If you do not attend occupational health or co-operate with the University's reasonable attempts to obtain medical advice, it may have to make decisions about your future employment based on the incomplete information available to it.
- 14.4 If the medical advice is that you would be able to return to work on a limited basis, with a phased return or if appropriate adjustments were made to the place of work and/or to the way in which the work is carried out, full consideration will be given to whether this can reasonably be accommodated by the University.
- 14.5 If the medical advice is that there is no or little likelihood of you being able to return to work and/or perform your role in a reasonable timeframe you will be invited to a meeting to discuss your condition, the medical evidence available, what adjustments, if any, can be made to your role and any other reasonable and appropriate options. You will be entitled to be accompanied to this meeting as set out in paragraph 4.
- 14.6 This meeting will be chaired in accordance with the following table:

LONG TERM ABSENCE MEETING	
Staff in grades 1-5	Line Manager or other appropriate manager (with sufficient seniority) <u>and</u> an HR representative
Professional and managerial staff in grades 6-9	Head of Function (in Services) or Head of School (in Schools) <u>and</u> another appropriate manager <u>plus</u> support from HR
Academic Staff in grades 6-9	Head of School <u>and</u> another appropriate manager <u>plus</u> support from HR

- 14.7 If, following reasonable investigation and discussion with you, the University concludes that it cannot reasonably continue to accommodate your absence and there are no other reasonable or appropriate options, the University may decide to terminate your employment.

15. Appeals against action for Capability (including dismissal for long-term absence)

- 15.1 If you feel that action in respect of capability that has been taken against you is wrong or unjust you should appeal in writing, stating your full grounds of appeal, to the Director of Human Resources within 10 working days of the date on which you were informed of the reasons for the decision.
- 15.2 If you are appealing against dismissal, the date on which dismissal takes effect will not be delayed pending the outcome of the appeal. However, if your appeal is successful you will be reinstated with no loss of continuity or pay and, subject to any lesser sanction imposed, the overturned decision will not prejudice your current employment or future career prospects.
- 15.3 You will be given written notice of the date, time and place of the appeal hearing. This will normally be at least 10 working days after you receive the written notice.
- 15.4 The appeal hearing will be a review of the fairness of the original decision in the light of the procedure that was followed and any new information that may have come to light.
- 15.5 The appeal hearing will be chaired by an appropriate manager who is more senior than the manager who chaired the capability hearing, in accordance with the following table, who has not been previously involved in the case:

	APPEAL AGAINST WRITTEN WARNING OR OTHER SANCTION SHORT OF DISMISSAL	APPEAL AGAINST DISMISSAL
Staff in grades 1-5	Manager of Line Manager <u>plus</u> support from HR	Manager of the person who took decision to dismiss <u>and</u> an HR representative
Professional and managerial staff in grades 6-9	Manager of Line Manager <u>plus</u> support from HR	Head of Service or Pro-Vice-Chancellor <u>and</u> another appropriate manager <u>plus</u> support from HR
Academic Staff in grades 6-9	A Pro-Vice-Chancellor <u>plus</u> support from HR	A lay member of the University's Council and the Vice-Chancellor, Deputy Vice-Chancellor or a Pro-Vice-Chancellor <u>plus</u> support from HR

- 15.6 In cases where you have been dismissed, if you consider that the attendance or ill health that is the subject of the capability process raises questions of academic freedom, you may make an application to an appointed member of the University's Council, who will consider your application. If he or she considers that there are questions of academic freedom, he or she will direct that the Vice-Chancellor, Deputy Vice-Chancellor or Pro-Vice-Chancellor position on the panel shall be instead undertaken by an independent person from a list of such independent persons which shall be reviewed and agreed with the University and College Union each year.
- 15.7 You may bring a companion with you to the appeal hearing, as set out in paragraph 4.
- 15.8 The University may adjourn the appeal hearing if Chair of the appeal hearing/Panel considers it needs to carry out any further investigations in the light of any new information. You will be given a reasonable opportunity to consider any new information obtained before the hearing is reconvened.
- 15.9 The outcome of the appeal hearing may be to:
- (a) confirm the original decision;
 - (b) revoke the original decision; and/or
 - (c) substitute a different sanction which shall not be more serious than the one imposed following the capability hearing.
- 15.10 You will be informed in writing of the final appeal decision as soon as possible, usually within 10 working days of the appeal hearing. There will be no further right of appeal.