

Capability Procedure

What is its purpose?

ted Learning places great importance on maintaining levels of performance at an acceptable standard to ensure the ongoing success of our business. This procedure provides a fair and objective process to enable managers to ensure that those standards are met in every aspect of our operations.

Why is it important?

It ensures that all employees are treated fairly and supported to maximise their potential, contributing to the ongoing success of ted Learning Group.

Who or what within the organisation does it apply to?

All ted Learning employees.

When will it be effective from?

January 2020.

The procedure to be followed:

For the purpose of this Capability Procedure, capability is defined as:

"Where an employee is failing in a significant or persistent way to carry out their responsibilities or duties in a satisfactory manner, either due to a lack of ability, inadequate training or lack of experience. Such failings will be identified by use of the following procedures and steps taken to improve performance. Where such steps prove unsuccessful the employee may have their employment terminated on the grounds of incapacity".

The procedures set out in this document aim to ensure that there is:

- A means of monitoring performance and establishing performance criteria.
- A degree of consistency in how employees with widely differing responsibilities and duties are given opportunities to attain satisfactory levels of performance.
- Assistance in identifying the most appropriate form(s) of support and providing that support.

If an employee fails to overcome their difficulties, any consequent action will be based on:

- Adequate evidence that the employee is incapable of performing their duties satisfactorily.
- A fair procedure.
- The employee was given all reasonable assistance to overcome such failings.

Stage 1 - Informal Procedure:

Where an employee of ted Learning Group exhibits an inability to perform their duties satisfactorily, ted Learning Group will attempt to resolve the matter informally via a meeting between the Line Manager and the employee.

The employee will receive notification of the meeting in writing, detailing the date and nature of their unsatisfactory performance and how such performance can be improved to the satisfaction of the Line Manager. The employee will also be informed that they may be accompanied at any meetings by a work colleague.

At this meeting, the Line Manager will agree performance standards with the employee and a time period (normally three months) over which improvement will be expected. They will also agree how the individual's performance will be monitored.

If the individual's performance improves adequately over the timescale, then the process will terminate at this stage. If performance remains unsatisfactory, then the formal procedure will be invoked by the Line Manager as set out in stage 2.

Stage 2 - Formal Procedure - Information Collection:

The Senior Manager / Director of the Line Manager concerned may call on the support of an external advisor or another member of the Senior Management Team, to undertake collecting the necessary information.

They would be expected to interview the employee concerned and the Line Manager, as well as any other appropriate individuals. The employee should be informed that they may be accompanied at any meetings by a work colleague.

A written report based on evidence gained e.g. by interviews and observation of performance will be prepared by the advisor / Manager. The report should be precise and specific in the observations and comments it makes and will contain clear information on:

- areas where the employee is failing to perform adequately
- actions already taken by management to address these failings and whether these actions were adequate - i.e. were clear performance standards set and monitored
- whether the employee acknowledges a problem and shows a willingness to improve
- the impact of the individual's failings on colleagues and work output
- any other mitigating factors

The report should be given to the employee concerned and to the Line Manager. Both may record in writing any comments on the observations contained within the report.

The Senior Manager / Director will consider the report, and may opt to take one of the following options:

- no further action
- instruct the line manager to set reasonable performance standards for the individual and monitor these for a set period of time. (This option should be chosen if this has not previously been carried out adequately and at least three months given to improve)
- convene a formal capability hearing to consider the matter further

The Senior Manager / Director's decision and subsequent next steps will be communicated to the employee and Line Manager in writing. If a formal capability hearing is required, the procedure below will be followed.

Stage 3 - Capability Hearing

The Senior Manager / Director will write to the employee informing them of the date of the hearing, attaching any relevant documentation. The letter will contain:

- The performance deficits in sufficient detail to ensure that the employee fully comprehends their nature, extent and seriousness.
- The time, date and venue of the hearing.
- The person who will conduct the hearing, usually the Senior Manager / Director
- An outline of the procedure of the hearing.
- A statement that all employees have the right to be accompanied by a trade union representative or work colleague at any interview or hearing held under the provision of these procedures.
- At least 7 working days notice of the hearing.

At the hearing, the employee will be given the opportunity to put forward a defence, to bring witnesses in support of their defence, to present mitigating circumstances and to make a full statement.

If the allegation of poor performance is found to be justified, then a decision on the action to be taken must be made. Depending on the nature, frequency and seriousness of the allegation(s) it is expected that at this stage a Warning will be given and this will be confirmed in writing.

A letter should be sent to the employee confirming the decision and the reason(s) why it was made. The letter will also indicate that the employee's progress will continue to be monitored and how this will be carried out. A time scale for performance to improve and a review date(s) will be specified.

If the failings are found to be not sufficiently serious to warrant a formal warning or where there are mitigating circumstances, then monitoring should be discontinued subject to a clear indication to the employee that it may be reintroduced if the problem(s) reappear.

Stage 4 - Second Capability Hearing:

If poor performance continues, the process set out in Stage 3 should be repeated. The time scale for improvement will depend on the nature of the duties and responsibilities of the employee concerned and the seriousness of the performance issue.

If the conclusion of the second hearing is that performance has not sufficiently improved and that there is still evidence of incapability despite support and prior warnings, a Final Warning should be issued.

The letter confirming the decision in addition to covering the points made at Stage 3, should clearly state that if an improvement is not forthcoming, ted Learning will convene a final meeting at which it will consider terminating the contract of the employee involved on the grounds of capability.

Stage 5 - Third Capability Hearing:

The appropriate Director will conduct the third hearing. At this hearing, if previous advice, training and warnings have not had the desired effect and performance remains below the required standard, they will terminate the contract of the employee concerned. The procedures outlined in Stage 3 will be followed.

Appeals:

An appeal against any decision to terminate the employee's contract of employment on the grounds of capability may be made in writing to the Group People & Learning Director or to the ted Learning Group Managing Director within 14 days of the decision. The employee's appeal will be heard by the appropriate Director. Decisions made on appeal are final and will be communicated in writing to the employee.

Long-Term/Persistent Illness:

Where any shortfall in expected performance arises from long term or persistent illness the Company shall refer to the Management of Absence policy.

Related documents and links to other procedures

ted Learning Group Management of Absence policy.

Impact and effectiveness

the Group MD is responsible for the management and monitoring of effectiveness of this policy.