

Royal Northern College of Music

Capability Policy

Policy & Procedure

Department: Human Resources

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RNCM
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1 Purpose

'Capability' refers to an employee's skills, ability, aptitude and knowledge in relation to the job that they are employed to do. A lack of capability will in most cases lead to unsatisfactory job performance, which is likely to cause problems for the employee, the employee's manager, colleagues and clients. For this reason, the College will actively manage capability issues and appropriate action will be taken at the earliest opportunity.

This policy and its procedures have been introduced to:

- provide support to those employees who are underperforming due to a lack of capability;
- ensure that employees are given every reasonable opportunity to improve their performance including appropriate and reasonable additional training or guidance to achieve a satisfactory standard;
- ensure a fair and consistent approach to underperformance which applies to all employees;
- maximise performance by addressing capability issues at the earliest opportunity;
- ensure the College meets its statutory responsibilities in relation to relevant employment legislation and to take account of best practice guidelines.

Wherever possible, managers should seek to address individual or minor performance problems as they occur, and without the need to implement the Capability Procedure. This procedure is not intended to prevent the normal process of supervisory activity whereby line managers allocate work, monitor performance, highlight work well done and draw attention to poor performance.

This policy concentrates on performance and the reasons for under-achievement, which may include disability. Due regard will be given to the Equality Act 2010 where this is applicable, for example, reasonable adjustments will be considered such as special equipment or facilities to enable the employee to continue to perform their job.

This policy and its procedures apply to all College employees who have successfully completed their probation period and who are employed under a permanent or fixed term contract, **except the holders of senior posts¹, who are subject to procedures to be determined by the Board in each case, according to the nature of the capability issue to be addressed, and in consultation with the senior post-holder concerned.**

Employees who have not completed their probation period are covered under the College Probation Policy and Procedures.

The Capability Procedure is used for situations concerning a genuine lack of capability unlike the Disciplinary Procedure, which is used for situations where there is consistent carelessness or misconduct on the part of an employee. If at any stage a manager has reason to believe that any aspect of the underperformance relates to issues of conduct, the manager will invoke the Disciplinary Procedure.

¹ Holders of senior posts are those posts referred to in the Articles of Government - "the holders of senior posts" means the Principal and the holders of such other senior posts as the Board may determine, and "holder of a senior post" shall be construed accordingly.

The College's Sickness Absence Management Policy will apply in the case of capability issues due to ill-health and absence due to sickness.

The College is committed to ensuring that there is no unlawful discrimination and bias in the application of its procedures. Action taken under this procedure will therefore be monitored to ensure fairness.

2 Performance Standards

The College is committed to supporting and developing its staff to ensure that they are able to fulfil their roles and responsibilities to a high standard of competence. Through the College's Recruitment and Selection Policy and Procedures, every effort is made to ensure that new employees have the appropriate skills and abilities, or a clear demonstrated potential to achieve these, for the role they are recruited to. When an employee starts a new role, they should be clearly informed of their responsibilities and the standard of work performance required.

Managers should set realistic and achievable standards consistent with the employee's contract and job description. They should ensure that members of staff know exactly what the standards mean in terms of quantity and quality of work and the time/costs associated with the expected outputs. Guidance on the setting and communication of standards will be given. This should be reinforced through appropriate induction and training, constructive and regular feedback, regular one to one meetings with the line manager and the College Performance Development Review (PDR) process.

2.1 Expectations

<p>The College expects staff to</p>	<ul style="list-style-type: none"> • Carry out their duties to the standard that is expected of and required for the role and grade • Understand the impact of their job performance on colleagues, students, and service users • Clarify expectations, tasks, objectives and behaviours with their line manager if they are unclear about them • Bring all relevant issues which may affect their work and performance to the attention of their line manager at the earliest possible opportunity • Engage fully in their induction, probation and Performance Development Review (PDR) • Co-operate with their manager to help improve any aspects of their work and performance which are considered to be unsatisfactory • Attend meetings to discuss any aspects of their performance which are considered unsatisfactory as requested to do so
<p>Staff can expect the College to</p>	<ul style="list-style-type: none"> • Treat performance issues fairly and consistently • Take action promptly and look into the root causes of the performance issue • Be clear about the required improvement and the relevant timescales • Provide appropriate support, and where necessary training, to improve performance • Deal promptly with minor unsatisfactory performance issues through informal intervention

	<ul style="list-style-type: none"> • Commence the formal procedure only if there is no significant and lasting improvement in performance following informal procedures
The College expects line managers to	<ul style="list-style-type: none"> • Set clear expectations of performance and what is necessary to achieve that performance • Set objectives and monitor performance through the probation and Performance Development Review (PDR) processes • Praise good performance and identify where performance is below required standards • Identify where performance is not satisfactory and take the appropriate action at the earliest possible opportunity • Take advice from the Human Resources department where required

3 Informal action

Where there is evidence that an employee is not performing to an acceptable level, the line manager should investigate the circumstances without delay and explore the reasons for the unsatisfactory performance. If, following this examination, the manager considers that the individual's performance is deficient in some material respect, an informal discussion with the member of staff will be arranged.

Although there is no statutory right to be accompanied, the manager may choose to allow a trade union representative or work colleague to attend at the employee's request.

During the meeting the manager should:

- clearly state the nature of the problem and explain the implication for the operation of the School/Department, for example the impact on service delivery;
- provide specific examples of instances where performance has fallen below the required standard or where tasks have not been completed on time or satisfactorily;
- seek to establish the cause of under performance by asking the employee for their explanation and whether there are any mitigating circumstances (e.g. lack of training, workload issues);
- restate what is expected in terms of job outputs and targets;
- explore the support that the employee may require to achieve improvement (e.g. training, mentoring, closer supervision, temporary alteration of duties to allow the employee to develop);
- set a reasonable time frame within which improvement is expected and arrange a further meeting at the end of this time to review the situation. When establishing "reasonable timescales" for improvement, managers must consider the complexity of the tasks involved in relation to the qualifications and experience of the individual;
- keep a record of the meeting and what has been agreed.

When discussing under-performance managers must be specific about their concerns and must demonstrate evidence and/or give examples to support their assertions.

The content and outcome of this meeting will be confirmed by the line manager/supervisor in writing to the individual, including the type of improvement required, any additional support or training that will be provided, any other agreed actions and the timescale for improvement and

review. A template 'Performance improvement plan' can be found in Appendix A, and practical guidance in Appendix B, to support this process.

If the necessary improvement in performance is achieved within the set time-scale, the employee should be informed that no further action will be necessary and all copies of the documentation involved should be forwarded to Human Resources for retention on the employee's personnel file for the following twelve months. At the end of this period they will be removed.

If performance continues to be unsatisfactory the manager should initiate the formal procedure set out below, in consultation with HR.

4 Formal action

Practical guidance is available in Appendix B

Employees will be given a minimum of 5 working days' notice, in writing, of any formal capability review meeting, be advised of the reason for the meeting and of their right to be accompanied (see 4.4).

Where witnesses are to be called by the line manager/Head of Department/School or employee, prior notice of this should be given to all parties.

4.1 Stage 1 – Meeting with line manager

The line manager will explain the reason for the meeting. The employee will be reminded of the earlier informal discussion and the steps taken to support an improvement in their performance. The line manager will explain their continued concerns and provide supporting evidence. The employee will be given the opportunity to respond and explain the reasons for their continued unsatisfactory performance.

Consideration will be given to additional training and/or support that could reasonably be provided to enable them to meet the required standard of performance. A reasonable review period will be set within which an improvement is expected and a further meeting arranged at the end of this to review the situation. The template 'Performance Improvement Plan' found in Appendix A may also be used at this stage to support the process.

The outcome of the meeting detailing any action plan and timescale for review will be confirmed in writing to the employee normally within 5 working days of the meeting.

4.2 Stage 2 - Follow-Up Meeting with line manager

At the end of the Stage 1 review period, a second meeting will be reconvened to assess the employee's progress against the objectives set.

The line manager will review the history of the case, outlining the steps that have been taken to support the employee to achieve the required level of performance. The employee will be given a further opportunity to respond and explain the reasons for their unsatisfactory performance.

The line manager may decide that:

- progress has been satisfactory; or
- the employee has demonstrated reasonable progress in tackling the outcomes agreed and may allow further time for the employee to improve. A further review date will be set and a meeting convened; or
- the employee has not demonstrated sufficient progress and a further meeting will be arranged in accordance with Stage 3 of this procedure.

The outcome of the meeting detailing any action plan and timescale for review will be confirmed in writing to the employee within 5 working days of the meeting.

4.3 Stage 3 – Capability Hearing

If it is felt that insufficient progress has been made, a Capability Hearing will be convened. Employees will be given a minimum of 5 working days' notice, in writing, of a meeting to discuss the options available and possible outcomes, one of which may be dismissal. The employee will also be advised of their right to be accompanied (see 4.4).

A manager who is senior to the manager who carried out Stage 1 will hear the case and will be known as the Chair of the hearing. A member of HR will be present and act as adviser to the Chair. The line manager will review the history of the case, including the steps that have been taken to support the employee to achieve the required level of performance. The employee will have the opportunity to respond and provide any supporting evidence.

The Chair may decide:

- that the employee's performance is satisfactory; or
- to allow further time for the employee to improve; or
- on redeployment to a more suitable post where available, if necessary on a trial basis. Where an employee is transferred to a lower grade job, they will be transferred to the grade of that job with an adjusted salary. The employee should be given sufficient time, normally 10 working days, to consider the offer, and should be informed that a refusal will normally result in dismissal. The employee should provide a written response within the specified time period; or
- that the employee's performance is unsatisfactory and that they should be dismissed on grounds of capability, with appropriate notice. If underperformance is having an adverse effect on the operation of the College, dismissal may take immediate effect and the employee will be paid in lieu of notice.

The outcome of the meeting will be confirmed in writing to the employee normally within 5 working days of the Hearing. Where the employee is dismissed they will be informed of the date their employment will terminate and of their right of appeal.

4.4 Right to be accompanied

In line with the ACAS code of practice, the employee must choose their companion from one of the following:

- a work colleague
- a workplace trade union representative who's certified or trained in acting as a companion

- an official employed by a trade union

The College will make reasonable adjustments for disabled employees. This might mean allowing someone else to attend, for example a support worker or someone with knowledge of the disability and its effects.

The College may allow companions who do not fall into the above categories and employees should seek approval from the College beforehand.

5 Right of appeal

If an employee wishes to appeal against a decision taken under this procedure, the appeal must be made to HR, in writing, stating the grounds for appeal, within 5 working days of receiving written confirmation of the decision.

In the case of an appeal against sanctions less than dismissal, the appeal will be heard by one member of the Executive Committee who has had no prior significant involvement in the case. If the appeal is against dismissal, the appeal will be heard by two members of the Executive Committee, who have had no significant prior involvement in the case, with academic representation where appropriate.

Where possible, the appeal hearing will be convened as soon as possible, normally within 10 working days of receipt of the appeal. A member of HR will be present as adviser to the person(s) hearing the appeal and to take notes.

An appeal hearing will not be a re-hearing of the case, but will rather be concerned with reviewing the application of the procedures, and whether, on the basis of the evidence presented at the hearing, the decision was appropriate, and whether the sanction is proportionate to the employee's level of performance and capability. The appeal may consider any new material evidence not available at the original hearing and which is relevant to the decision. Records and notes of the original capability hearing will be made available to the person(s) hearing the appeal

The employee will be informed of the arrangements for the hearing as soon as possible and of their right to be represented by a trade union representative or accompanied by a work colleague of their choice.

The appeal decision and the reasons for it will be confirmed in writing to the employee normally within 5 working days. The letter will identify that the decision is the final stage of the College's appeal procedure.

6 Capability records

Full records should always be taken of meetings with employees about job performance, whether they are formal or informal, as well as meeting outcomes.

Records taken and produced during the capability management process will be held confidentially and in accordance with the General Data Protection Regulations (GDPR) 2018.

7 **Related policies**

- Disciplinary Policy
- Sickness Absence Management Policy
- Probation Policy
- Performance Development Review Policy
- Dignity at Work

Performance Improvement Plan

Employee name:		Job title:	
Plan Start Date:		Plan End Date:	
Description of the underperformance:	Enter a description of the nature of the underperformance.		

Objectives should be **SMART** (**S**pecific, **M**easurable, **A**chievable, **R**elevant, **T**ime-based). Use as many or as few objectives as necessary.

Improvement Objectives <i>What specifically must the individual do to improve their performance to meet expected standards?</i>	Success Criteria <i>How will you know when the expected standards of performance have been met?</i>	Additional Support Required <i>What additional development or support does the individual require in order that they are able to achieve the expected standards?</i>	Review Schedule <i>When will progress against the improvement objective be reviewed? How will evidence of progress be collected? Who will review progress?</i>	Objective Outcome <i>When will the final review of the plan be undertaken and by whom? What is the final outcome? What action will be taken if expected standards are not met?</i>

Line Manager: _____

Date: _____

Employee: _____

Date: _____

1) Giving feedback

Feedback is the sharing of information on an employee's performance with them and on what is required to perform well in the future.

- Positive feedback serves to sustain and reinforce effective performance and is very important to ensure the individual is clear regarding what they are doing well.
- Corrective feedback serves to change performance that is inappropriate or ineffective
- Both should be constructive and lead to positive change in performance or behaviour

If appropriate feedback is not given, it may:

- mislead the employee by giving the impression that there is no problem
- prolong the problem or allow it to get worse
- deny the employee the chance to improve or put things right
- lower the morale amongst team members.

2) Setting performance standards

In taking forward a capability matter a manager must be clear and able to demonstrate three main points:

1. The standards expected of the employee
 - What standards are required to support the work of your team?
 - How are they determined?
 - How are they communicated?
 - Are they reasonable and up to date?
2. That the employee was aware of those standards
 - How and when are they communicated?
 - Are they clear and understandable to everyone?
3. That the employee fell short of those standards
 - How are standards measured and monitored?

Making the employee aware of the standards involves more than setting out standards at the start of the employment and then waiting to see how the employee meets them.

3) Key principles for capability meetings

The goal is to work together to ensure performance is improved within a supportive and constructive working relationship.

Before the meeting

- approach it positively and calmly
- prepare before you meet, establish the facts, be clear about your key points and desired outcomes
- check relevant policies and seek support from the Human Resources department or your own manager if you need it
- be prepared to listen and react calmly and professionally
- be sensitive, the employee may not know there is a problem

During the meeting

- be open, honest and clear
- use a friendly tone and open body language
- be factual, specific, and give examples
- ask open questions to enable the employee to reflect and identify options for improvement
- listen to the employee and take what they say on board – try to avoid interrupting

- make notes of key points
- check for understanding and record the agreed actions, focusing on future improvement
- retain control of the conversation – this may require ending the conversation if the employee is growing agitated, and resume after a brief period to allow the conversation to be more productive.
- plan when you will meet again to review

After the meeting

- Record any agreement and give a copy to the employee (the Performance Improvement Plan is a useful document for ensuring all elements are covered).

4) Handling emotions

The following principles may be helpful for managers when handling challenging conversations.

- Remain calm, acknowledge the employee's emotions and show empathy as appropriate
- Give the employee time to speak and express themselves
- Actively listen to the employee with understanding
- Let the employee feel heard by repeating back what they have said to you but in your own words e.g. "If I understand you correctly, you feel.....because....., is that correct?"
- Try to be comfortable with silence and try not to interrupt silence when it occurs.
- Be aware of your body language and your tone of voice. Make sure your body language is not confrontational (finger pointing, hands on hips), dismissive (eye rolling) or defensive (arms crossed). Stay out of the employee's personal space and avoid physical contact even if it's meant to be reassuring.
- Take time later to reflect on the discussion. Was the employee calmer when you finished, or more upset? What did you say or do that helped the situation or made matters worse? Reflecting on your words, actions and outcomes will help you be more effective next time and help you understand how to communicate effectively with this employee.

