

## Capability Policy & Procedure – Sickness Absence

### 1. Policy Summary

The purpose of this policy and procedure is to help colleagues where their attendance has fallen below an acceptable standard. The emphasis is on encouragement and support to help the colleague return to work. However, we recognise that in some cases, it may be necessary to take further action where a sustained return to work and the associated duties are not viable for the colleague.

It is our policy to ensure that all capability concerns are dealt with fairly and confidentially, that steps are taken to establish the facts specific to each case and to give colleagues the opportunity to respond at a hearing before any formal action is taken.

If an issue arises due to health or medical reasons, these will be dealt with in the first instance under our Absence Management Procedure. Any continued capability concerns caused by ill health may be dealt with under this Capability Policy and Procedure – Sickness Absence.

This policy and procedure address the attendance and capability of a colleague for reasons relating to ill health.

This procedure applies to all colleagues regardless of length of service.

### 2. Welfare Meetings

The purpose of a welfare meeting is to assess and support the needs of the colleague, prior to a formal procedure.

The meeting will be conducted by the colleague's Line Manager.

### 3. Notification of a Capability Hearing

We may need to take formal steps under this procedure if it becomes apparent a colleague is unable to return to work and fulfil the duties of their role due to ill health capability.

We will provide at least **48 hours** written notice of the date, time and place of a capability hearing.

The hearing will be conducted by the colleague's Line Manager (Chair), and will be accompanied by a company representative to take minutes of the hearing.

#### 4. Right to be Accompanied

You are entitled to bring a companion to any formal hearing under this procedure. The companion may be either a trade union representative or a current colleague. You must tell the person chairing the hearing who your chosen companion is, in good time before the hearing.

At the hearing, your companion may make representations to us and ask questions, but should not answer questions on your behalf. You may talk privately with them at any time during the hearing.

It is your responsibility to arrange for the companion to attend. Acting as a companion is voluntary and the colleague is under no obligation to do so. If they agree to do so, they will be allowed reasonable time off from duties without loss of pay.

If the chosen companion is unavailable at the time a hearing is scheduled and will not be available for more than **seven calendar days** afterwards, we may ask you to choose someone else.

We reserve the right to refuse or request an alternate companion where we feel that their presence may impede the procedure.

#### 5. Procedure at Capability Hearings

Colleagues will be provided with an opportunity to present their case and raise any mitigating factors they wish us to take into consideration.

Where a colleague cannot or fails to attend a capability hearing in person, they may provide a written submission to the chair. Where a colleague is unable to attend on more than one occasion, the hearing will take place in their absence and a decision will be made based on evidence available to the chairperson.

At the capability hearing we will go through the occupational health report and any other evidence which has been gathered to date regarding the case.

We may adjourn the capability hearing if we need to carry out any further investigations such as re-assessing capability or obtaining medical evidence in the light of any new points that have been raised at the hearing. You will be given a reasonable opportunity to consider any new information obtained before the hearing is reconvened.

Following the adjournment, and after careful consideration, the chairperson will issue their decision.

Any decision will be confirmed in writing to you within **seven calendar days** of the hearing which will also include your right to appeal.

## 6. Capability Sickness Absence Hearing Stages

### First Meeting

#### The chairperson will discuss:

- I. Your ill health capability and the prognosis for the future
- II. The option of seeking a medical opinion on likelihood of return to work
- III. Reasonable adjustments to your role to assist your return to work
- IV. Absence to date and assessment of impact on the business
- V. Next steps

If, as a consequence of the hearing, the chairperson concludes that your health capability remains a matter of concern then this will be made clear to you.

Should there be no reasonable return to work date then you will be invited to attend a stage 2 hearing.

The decision will be confirmed in writing to you within **seven calendar days** of the hearing which will also include your right to appeal.

### Final Meeting

#### The chairperson will discuss:

- I. Your medical condition and the prognosis for the future
- II. Expected recovery based on medical evidence
- III. Review discussions regarding reasonable adjustments
- IV. Next steps

The chairperson may conclude that despite measures taken, that there is still no likelihood of a return to work, and therefore you may be dismissed on the grounds of ill-health capability.

Any decision will be confirmed in writing within **seven calendar days** of the hearing.

## 7. Right to Appeal

If you feel that we have not fairly considered your submissions under our Capability Policy and Procedure – Sickness Absence, you can request an appeal of the original decision. You should appeal in writing, to the appeal manager named in your outcome letter, stating your full grounds of appeal, within **seven calendar days**.

We will provide you with at least **48 hours** written notice of the date, time and place of the appeal hearing.

The appointed appeal chair will be a manager who has not dealt with the original matter. The chairperson will be accompanied by a company representative to take minutes of the hearing.

If you raise any new matters in your appeal, we may need to carry out further investigation. If any new information comes to light, we will provide you with a summary.

You will be given a reasonable opportunity to consider any new information obtained before the hearing is reconvened.

In any event, written notification of the outcome of the hearing will usually be sent to the colleague within **seven calendar days** of the hearing, or as soon as reasonably practicable, together with an explanation of the appeal decision taken

Following the appeal hearing we may:

- I. Confirm the original decision
- II. Revoke the original decision

There will be no further right of appeal.

<b>Signed off by</b>	Group Managing Director
<b>Held By</b>	People Team
<b>Issued</b>	2023
<b>Version</b>	Version: 01
<b>References</b>	Employment Law