



BBC Capability Policy

This policy forms part of the contract of employment that applies to BBC employees in the UK on Grades 2-11, and is an agreed statement between the BBC and recognised joint unions which may only be varied by joint negotiation at the National Joint Council.

Definition

This policy sets out the procedure to be followed where an employee fails to reach or maintain the required standards of job performance through a lack of knowledge, skill or ability.

The *BBC Disciplinary Policy* will be used where the failure to perform to the standards required is a matter of misconduct.

The BBC reserves the right to implement the capability procedure at any of the stages as set out below, taking into account the relevant circumstances including the level of poor performance, the nature of the role and the performance issues in question. In particular in cases of gross negligence or in any case involving an employee who has not yet completed their probationary period, dismissal without following the capability procedure may be appropriate.

Principles

- Individuals are expected to be capable of carrying out the work they are engaged to do at the required standard.
- Reasonable efforts should be made to informally address issues of under-performance without instigating the Formal Procedure.
- Managers are required to provide an employee with a reasonable opportunity to improve and support to achieve the required standard of performance. The period of time to improve and level of support must be balanced against the needs of the business.
- At any formal meetings employees have the right to be accompanied by an accredited trade union representative or a BBC colleague (other than a practicing lawyer), and the employee will be advised of that right prior to the meeting. The companion should be allowed to address the meeting in order to present the employee's case.
- There is no minimum period of notice for the formal capability meetings, but the member of staff will be permitted sufficient time to contact and brief an accredited representative or BBC colleague.
- Employees must take all reasonable steps to attend formal capability meetings. Failure to attend a meeting without good reason may be treated as misconduct.
- Employees have the right to state their cases at formal capability meetings before decisions are reached.
- The employee will not be eligible for any pay increase due during the period of any Improvement Plan. This will be reviewed and the pay increase reinstated at the point when the employee has consistently met the required performance standard.
- HR will be available to provide advice and guidance to the manager, attend meetings under the Formal Procedure and take notes as appropriate.

- The application of this policy will be in accordance with the *Data Protection Act* and the *BBC's Data Protection Handbook*.

Informal Action

In the normal course of employment, managers will discuss with an employee their performance, providing regular feedback.

Managers are responsible for setting realistic standards of performance, for explaining these standards to employees and for the provision of training, support and guidance, where appropriate, so that the employee has the opportunity to perform well.

The manager and the employee should aim to discuss any under-performance issues at or around the time they arise.

Prior to the instigation of the formal procedure the manager will ensure that an employee has been advised of their under-performance and will provide support and assistance so that the employee has the opportunity to achieve the required standard. Support may include the provision of training, development, advice, guidance or other support. As part of this process the manager will advise the employee that failure to reach the required performance standard may result in the formal procedure being instigated. This will be confirmed in writing.

Where informal action does not achieve satisfactory results or if informal action is not appropriate, the Formal Procedure will be implemented.

Formal Procedure

Step 1: First Capability Meeting

The manager will write to the employee notifying them of the concerns over their performance and the basis of those concerns, and will invite them to a meeting to discuss the matter.

At the meeting the employee's manager will explain the way in which the required standard has not been met, using examples to support concerns. Through discussion with the individual, the manager will seek to identify the reasons for the unsatisfactory performance.

Following the meeting, if the manager decides that it is appropriate to do so, the employee will be issued with a written Improvement Note setting out the areas in which the employee has not met the required performance standards and the improvement that is required, and a formal Improvement Plan will be initiated. The Improvement Note will stipulate that failure to reach the required performance standard may result in further formal action being taken and could lead to dismissal.

The Improvement Note will be disregarded for capability purposes after 12 months or such other period as specified at the time it is issued.

Improvement Plan

An Improvement Plan aims to enable the individual to achieve the required standard of performance.

The plan will include clear, measurable and realistic objectives. Performance progress will be reviewed periodically. Specific actions will be detailed and may include training and development activities, advice, guidance, or support activities.

When issuing an Improvement Plan the manager will ensure the length of the plan is reasonable by taking into account all of the relevant circumstances including:-

- the level of poor performance;
- the performance issues in question and improvement required; and
- the nature of the role.

The length of the plan would not normally exceed three months.

Interim Review

During the Improvement Plan, the employee's manager will usually hold at least one interim review meeting to assess the individual's performance against the Improvement Plan period to date.

Where progress towards the objectives is satisfactory, it will be recognised and continued improvement encouraged. If the individual is not making sufficient progress towards the objectives the manager will discuss with the employee the further improvement that is required and any support that is needed.

Step 2: Second Capability Meeting

At the end of the Improvement Plan period, a meeting will be held to review the employee's performance. The manager will write to the employee in advance explaining the purpose of that meeting.

The possible outcomes of the meeting may include but are not limited to:

No further action: If the manager determines that the objectives have been met and the individual is performing at the required standard no further action will be taken. The employee will be informed in writing that they have achieved the required level and that they are expected to maintain that standard of performance.

Extension of the Improvement Plan: Where significant progress has been made in achieving the required standard but concerns remain, a manager may decide it appropriate to extend the Improvement Plan. The length of the extension will take into account the length of the previous Improvement Plan and the level of under-performance but cannot exceed the expiry of the Improvement Note.

Where the required standard of performance is not achieved during the extension of the Improvement Plan the employee will be required to attend a further Step 2 meeting.

Final written warning: If the objectives have not been met and the manager concludes that the under-performance may still be rectified by further support a final written warning and Improvement Plan may be issued to the employee. The warning will stipulate that failure to reach the required performance standard may result in dismissal or redeployment to another position. A final written warning will be disregarded for capability purposes after 12 months or such other period as specified at the time it is issued. In exceptional circumstances a warning may remain in force for more than 12 months or never be removed.

Step 3: Third Capability Meeting

At the end of a further Improvement Plan period, a meeting will be held to review the employee's performance. The manager will write to the employee in advance explaining the purpose of that meeting and that one of the possible outcomes may be dismissal or redeployment to another position.

The possible outcomes of the meeting may include but are not limited to:

Redeployment to another position - the manager may consider that this is appropriate as an alternative to dismissal. This may include demotion.

Dismissal with notice

No further action - this will follow the principles set out at Step 2 above.

The manager will inform the employee of their decision in writing.

Before a capability penalty is imposed on an accredited representative of a trade union recognised by the BBC, the capability proceedings will be discussed with a full time officer of the union concerned.

Step 4: The Right to Appeal

Employees have a right of appeal against the penalties under this procedure which are an Improvement Note, redeployment, a final written warning or dismissal. All appeals will be conducted in accordance with the *BBC Appeals Policy*.