

REPUBLIC OF RWANDA



**HIGHER EDUCATION COUNCIL
P.O.BOX 6311 KIGALI**

HUMAN RESOURCES POLICY & GUIDANCE

HR POLICY MANUAL

CAPABILITY PROCEEDURE

October 2007

CAPABILITY PROCEDURE

The Capability Procedure is different from the Disciplinary Procedure in its aim, and in the circumstances in which it will be invoked. It is designed to help resolve situations in which the performance of individual member of staff is falling below the requirements of their job. It will do this first by emphasizing the need for open communication between colleagues at different levels, and secondly by ensuring that training and development needs of individuals are fully recognized and adequately fulfilled. The procedure is therefore essentially directed at prompt, constructive joint resolution of problems.

This procedure is in respect of all staff employed at the Institution other than the Rector and Vice Rectors for whom separate provision will be made (see Appendix 1).

1. PRELIMINARY (INFORMAL) STAGE

The Preliminary Stage is invoked when a member of staff is perceived to be underperforming by their line manager. This may be as part of Performance Review, but the procedure can be invoked at any time.

The Development Plan agreed between a member of staff and their line manager as part of Performance Review is the starting point in the process of communication between staff and those to whom they report. There is, however, a need for continuous ongoing discussion on objectives and priorities for all members of staff. Day to day communication should allow the manager and his/her members of staff to keep in touch with progress, and to correct any minor problems, which may arise. However, where a manager becomes aware of a more serious failure to achieve agreed targets, or performance standards, an informal interview should be held to establish the cause of the unsatisfactory performance. It is important that such issues should be tackled promptly. The approach taken at this stage should not be punitive, but one designed to find out what the causes of the poor performance are and what remedial action can be taken.

The aim of the interview will be to:

- A) Confirm the facts of the situation;
- B) Ensure an understanding of required performance;
- C) Explain the manner in which performance is not satisfactory;
- D) Identify the cause(s) of poor performance;
- E) Agree what remedial action needs to be taken. This could include further resources, training, coaching or counseling;
- F) Set a reasonable period within which the staff member must achieve the improved performance, to be referred to as 'the review period';
- G) Agree a system for monitoring progress.

In preparing for the interview, the manager should consider the following questions:

- a) Have I obtained full information on the facts of the situation?
- b) Could the poor performance be related to personal problems outside work?
- c) Are the objectives still relevant and achievable?
- d) Is further training or coaching needed?

(If at an informal stage the manager and member of staff are unable to reach an agreement on the nature of the problem and the best solution to it, then either party may approach the Director of Administration and Human Resources who will identify an appropriate person to offer advice. If it becomes apparent at this stage that the poor performance is caused not by capability, but by a lack of willingness to carry out reasonable duties, the Disciplinary Procedure should be invoked).

A written record, signed by the line manager and the member of staff, should be kept of:

- Agreed objectives for the staff member;
- Agreed action to help achieve the agreed objectives;
- The frequency of meetings between the line manager and member of staff during the review period;
- Agreed period within which objectives should be achieved.

Copies of this record will be kept by the manager, the staff member, and a copy placed on the

member of staff's file.

At the end of the review period a further interview will be held, at which time;

- If the required improvements have been made, the staff member will be told so and encouraged to maintain the improvement. A written record of the meeting will be placed on the member of staffs file; or
- If some improvement has been made but full performance has not yet been achieved, the review period will be extended for an agreed period. A further interview will be held between the manager and the member of staff at the end of the agreed extended review period;
or
- If no improvement has been made, the manager will explain this to the staff member and the procedure will move to a formal stage.

The Dean/Director must consult with one of the Vice Rectors before moving to the formal stage.

2. FORMAL STAGE

Once a decision has been taken to initiate a formal capability hearing, the employee concerned should be informed in writing of:

- a) The nature of the problem;
- b) The place, date and time of the hearing;
- c) Their right to be accompanied by a friend.

This notification should be given at least seven calendar days before the date of the hearing.

Those present at the Formal Hearing will be a Vice Rector, the Dean/Director, Head of Department, Director of Administration and Human Resources and the employee. The employee will have the right to be accompanied by a friend not acting in a professional capacity.

(The hearing will be conducted in line with the attached notes for guidance Appendix 2.)

At the end of the hearing the Vice Rector, the Dean/Director, Head of Department and Director of Administration and Human Resources, will reach a joint decision. The staff member will be

notified in writing within three days of the hearing of the outcome. A copy of the written record will be placed on the member of staffs file.

The employee should be informed which of the following lines of action are to be taken:

- Extension of the review period;
- Offer (if a post is available) of an alternative position which the employee would be competent to fill;
- Invoking of Disciplinary Procedures.

Extension of Review Period

If the review period is to be extended, any further remedial action should be agreed, and the period within which improvement is to be achieved should be set.

If at the end of the extended review period the required improvement has been made, the employee will be told so and encouraged to maintain the improvement.

If the required improvement has not been made, the Vice Rector will explain this to the employee and a further Formal Capability Hearing will be convened in accordance with the provisions of this section.

Offer of Alternative Position

The employee will be given full details of appropriate vacancies in writing before being required to make a decision. If an offer of alternative employment is refused then the *Institutions Disciplinary Procedures* will be invoked.

Invoking of disciplinary Procedures

Disciplinary action will be taken under the Institutions disciplinary procedures with a view to recommending dismissal.

The decision of the Formal Hearing will be taken to the Board of Directors for confirmation, and in the case of local administrative and support staff in public institution to the Ministry of Public Service, and for academic staff to the National Council for Higher Education.

RIGHT OF APPEAL

An employee may appeal against a decision to offer him/her an alternative position or for the

Disciplinary Procedures to be invoked, and will be told of this right in writing, with the letter informing them of the outcome of the hearing.

Notice of Intention to Appeal shall be submitted in writing to the Rector within seven calendar days of receipt of the notice of the offer of the alternative position.

The Appeal will be held within fourteen days following the receipt of the appeal, in accordance with the attached Notes for Guidance in the Conduct *of* a Formal Capability Hearing, and shall be chaired by the Rector.

Reporting to the Board of Directors

The outcome of any formal stage investigations should be reported, at the next appropriate opportunity, to the Board of Directors under confidential reserved business (i.e. without students present). The name(s) of any staff where the investigating team found there was no case to answer or where the member(s) of staff concerned have given notice that they intend to appeal against the recommendations or where the member of staff is under competency review should not be revealed and the report should be made in such a way as to conceal their identity. If it is likely that the person(s) will be identified in any report made then the Board should be informed of this and the report should remain confidential to the Chair. The Rector's annual report to the Board of Directors should include statistical data on the number of investigations conducted under this policy during the year and the outcomes.

APPENDIX 1

Capability Procedure for Senior Staff (Rector and Vice Rectors)

The capability procedure followed is the same as for all other employees except that the Line Manager for senior staff is the Chair of the Board of Directors for the purposes of this procedure.

APPENDIX 2

NOTES FOR GUIDANCE IN THE CONDUCT OF A FORMAL CAPABILITY HEARING

Once all parties have been assembled for the hearing, the procedure *to* be followed should be:

- a) Those present should be introduced *to* the employee and an explanation given for their attendance;
- b) The precise nature of the problem should be stated;
- c) The case should be supported by the presentation *of* evidence that has been collected;
- d) The employee should be allowed to present his/her case, which may involve the use *of* evidence and/or calling *of* witnesses;
- e) If at any time evidence is brought forward which needs further investigation, the hearing should be adjourned and a time and date agreed for it to be reconvened;
- f) A period *for* general discussion should be allowed during which both sides can ask questions and provide explanations of points which have been raised;
- g) If it becomes apparent that there is not a firm basis for the allegation *of* unsatisfactory performance, *or* the employee has provided an adequate explanation, then the proceedings should be stopped;
- h) The main points concerning the problems, and the evidence provided *by* both sides, should be summarized to ensure that nothing has been overlooked by either side;
- i) Before reaching a decision, in all but the simplest cases, the hearing should be adjourned *to* allow for a period *of* consideration *of* all points raised, the past record *of* the employee, any extenuating circumstances and any actions previously taken in similar cases;

If the decision is made to offer an alternative position, and the employee rejects that position, the panel invokes the Disciplinary Procedure.