



Managing Capability - Guidance for Handling Formal Meetings

1. Scope

This document provides guidance on the process to be followed in arranging meetings with employees which form part of the formal procedure under the Managing Capability Policy.

This guidance does not apply for any informal meetings which take place prior to the formal capability procedure commencing. In addition, it does not apply where the purpose of a meeting is to let employees know that formal action is about to commence, or for any day to day meetings.

The process for informing employees that formal action is about to begin is outlined in the Managing Capability Policy.

This guidance is written on the basis of on campus working and therefore refers to in-person, face to face meetings. If hybrid working arrangements are in place, adaptation may be required to manage meetings remotely and on-line.

Guidance relating to meetings held under the Disciplinary, Absence and Grievance Policies is available from Human Resources.

2. Confidentiality

It is important to maintain appropriate confidentiality during the formal capability process to ensure the integrity of the process.

As a general rule, employees involved in the formal capability process should respect an appropriate level of confidentiality and should not discuss matters with other people where this could have a prejudicial effect on the process.

3. Invitations to Meetings

It is recommended that contact should be made with employees to check their availability, and the availability of any person accompanying them (see Section 9 below), before the date of a meeting is confirmed.

In advance of a formal meeting, employees should always be informed of:

- The purpose of the meeting
- The fact that the meeting is being held under the Managing Capability Procedure
- The names of those who will attend the meeting, and the capacity in which they are attending
- The time, date and location of the meeting, with directions where necessary
- The likely duration of the meeting
- Details of the Managing Capability Policy so that the employee can familiarise themselves with the process in advance of the meeting
- Their right to be accompanied, and the role the person accompanying them can play in the meeting
- Details of any documentation which is to be considered / discussed at the meeting
- The need for confidentiality.

The employee should be asked if they require any adjustments as outlined in Section 6 below.

The employee should be asked to confirm that they will be attending the meeting, and also to confirm the name of any person who will be accompanying them.

4. Availability for Meetings

Employees, and any person who is due to accompany them, must make every effort to attend meetings arranged as part of the formal capability process. It is the employee's responsibility to make the person accompanying them aware of the details of the meeting and to arrange for their attendance.

The University recognises that some employees will feel anxious about attending formal capability meetings. However, meetings are an important part of the process, and give the employee the opportunity to present their views and put forward any information in support of their case as appropriate.

4.1 Non-Attendance at Meetings

If employees are absent from work due to ill health and do not feel well enough to attend a formal meeting under the Managing Capability Policy, the University will be sympathetic to their condition and make every effort to allow them to give their views. However, it is equally important that a process is not unreasonably delayed at any stage. Therefore when employees are unable to attend due to ill-health, the following will normally apply:

- If the employee fails to attend the first meeting, a second meeting will be arranged
- The following alternatives may be offered for the second meeting, subject to mutual agreement, in order to give the employee every opportunity to present their views:
 - Holding the meeting at a suitable neutral location
 - Holding the meeting via a telephone conference
 - Holding the meeting in the employee's home, if considered appropriate and depending on the issue in question.

If the employee concerned is the subject of formal action under the Managing Capability Policy, the following options will also apply:-

- Going ahead with a meeting in the employee's absence but with a Trade Union representative or workplace colleague of their choosing who will present their case;
- Going ahead with the meeting but taking into account any written representations that the employee wishes to make.

If employees who are the subject of formal action under the Managing Capability Policy fail to attend two separate meetings, a decision will be made in their absence.

The meeting will take into account all relevant information and the employee will be notified of the outcome in writing and made aware of their right of appeal, as appropriate.

If the employee either refuses to attend, or does not turn up for a meeting, the same provision will be made as outlined above so that they have two opportunities to attend.

4.2 Availability of the employee's representative

If the employee's Trade Union representative or workplace colleague is unavailable to attend the meeting at the appointed time, the employee should notify the person arranging the meeting as soon as possible and may request postponement and suggest alternative times and dates within one week of the original date. Where a suggested alternative is feasible, the meeting will be postponed.

Every attempt will be made to accommodate the employee's choice of Trade Union representative or workplace colleague. However, if the chosen representative cannot attend a meeting within one week of the original date, and no other suitable alternative time is agreed, the employee should be asked to select someone else to accompany them who is able to attend at the original time.

5. Locations for Formal Meetings

All meetings arranged as part of the Managing Capability Policy must be held:

- In a confidential, private setting
- Away from busy / noisy work areas.

Meeting rooms should be of sufficient size to comfortably seat all those due to attend. If possible, there should be a separate space available to enable private discussion if there is a period of adjournment during a meeting.

Where employees have requested that a meeting be held in their home, care should be taken to ensure in advance that there will be sufficient room for the number of people involved, and that there will be no disturbances.

Where employees request that a meeting be held in a neutral location away from work, the parties involved must be comfortable that the location is suitable for this specific purpose and the matter to be discussed.

6. Support for Employees

Some employees may need reasonable adjustments in connection with meetings to allow them to participate fully in a process. Such arrangements may include:

- The provision of a room in an accessible location
- Documentation provided in large print or other suitable format
- An accredited sign language interpreter (or British Sign Language interpreter) or a room set up so as to facilitate lip-reading
- An interpreter, where English is not the first language of the employee and the ability to discuss complex matters in English is not an expectation of their job. (Special care should be taken to allow additional time for translation, and to record the process accurately)
- An employee with a mental health problem or learning disability may need support from a person with understanding of their particular needs.

The Human Resources Partner assigned to the case concerned will be able to provide advice on appropriate adjustments where required.

7. Making Records of Formal Meetings

Detailed notes of meetings which form part of the formal capability procedure should always be kept. Generally, note takers will create a typed note of a meeting. This does not need to be verbatim; it should however detail the issues raised, discussion points, answers to questions and any actions agreed where appropriate.

Those concerned should be asked to check records of meetings for accuracy. Where there is a disagreement, the details of the disagreement should be appended to the main body of the record.

It may be suggested that an audio recording of a meeting is made. In these circumstances, all parties at a meeting must be asked in advance whether they agree to the recording being made. There is no obligation on any party to agree to this.

Where agreement is given to record a meeting, a full transcript should be typed and agreed by all parties. Once the transcript has been agreed, the recording must be destroyed.

Further guidance on record keeping is available within the Managing Capability Policy.

8. Guidance for Conducting Meetings

Managers should recognise that many employees will find formal meetings under the Managing Capability Policy uncomfortable and stressful. For this reason, care should be

taken to ensure that the employee is as comfortable as they can be. Drinking water should be provided.

At the beginning of a meeting, all parties should be reminded of the purpose of the meeting and the capability process it forms part of. Employees should be introduced to other attendees, and informed of each person's role at the meeting, and they should be given the opportunity to ask any questions about the format of the meeting or the process involved before the main body of the meeting begins.

At the end of the meeting, those involved should be reminded that a written record of the meeting will be created and circulated to those present to check for accuracy. They should also be reminded of confidentiality requirements as appropriate.

All parties should also be made aware of what will happen next under the Managing Capability Policy.

8.1 Adjournments

There may be some sensitive issues to discuss during formal capability meetings, which sometimes lead to emotional upset. Where this is the case, the employee should be asked if they would like to take a short break from proceedings before they reconvene.

Similarly, the employee or the person accompanying them may ask for a brief adjournment for these reasons, and a short break should be given.

In some circumstances, employees may seek an adjournment to discuss a matter with the person accompanying them or to gather their thoughts. This is acceptable, and again a short break may be allowed.

Similarly, those holding the meeting may wish to discuss a matter privately before the meeting continues, and may suggest a brief adjournment.

Additionally, where meetings run for a long period of time, i.e. over two hours, a short break is recommended.

It is suggested that an additional private space is available locally for the employee and their representative to adjourn to. However, where this is not possible, those holding the meeting may leave the room for a short while.

9. The Right to be Accompanied

Employees whose performance is being managed under the Managing Capability Policy have the right to be accompanied to meetings held as part of the formal process. They may be accompanied by either a Trade Union representative/official or workplace colleague.

In some circumstances, at the discretion of those managing the process, employees may be permitted to bring an alternative companion if this is felt to be appropriate, for example if the employee has a disability or English is not their first language.

9.1 The Role of the Representative

The role of the person accompanying employees to a meeting is primarily to provide personal support. Many employees find it useful just to have someone there with them, even though the representative chooses to play no other part in the process.

The representative should be allowed to address the meeting in order to:

- set out the employee's case
- sum up the employee's case
- respond on the employees' behalf to any view expressed at the hearing.

They may not answer questions on behalf of the employee.

The representative can also confer with the employee and take notes on their behalf during the meeting.

10. Document History and Review

This guidance was approved by CJCNC on 30 March 2011 and took effect from 1 April 2011.

A full review of this Guidance was carried out, and amended as noted at Section 11.1, and was approved by CJCNC on 27 September 2013.

In March 2021, references to Disciplinary and Grievance meetings were removed as separate guidance accompanies these revised policies, effective 1 March 2021.

In May 2023, references to Absence meetings were removed as separate guidance accompanies this revised policy, effective August 2022. Reference to the Employment Related Appeals Procedure was also removed as this was decommissioned as the appeals process is now included in the Disciplinary, Grievance, Absence, and Managing Capability Policies.

In the event of any significant change to legislation relating to the processes outlined in the document, this guidance will be subject to immediate review in consultation with the Trade Unions. In the absence of such a change, the guidance will be reviewed by June 2026.

10.1 Change control record:

No.	Approval date:	Amendment made:	Approved by:
1.	27 Sep. 2013	Full Review: This Guidance was reviewed which resulted in no substantive changes being applied and only some minor textual amendments being applied. The review also resulted in the inclusion of Annex A, a Suggested Meeting Format template.	CJCNC
2.	March 2021	Removal of reference to discipline and grievance meetings as separate guidance supports new policies effective 1 March 2021	HRPDG
3.	31 May 2023	In May 2023, references to Absence meetings were removed as separate guidance accompanies this revised policy, effective August 2022. Reference to the Employment Related Appeals Procedure was also removed as this was decommissioned as the appeals process is now included in the Disciplinary, Grievance, Absence, and Managing Capability Policies.	PCF
4.	October 2024	Document was re-titled to clarify this as an accompanying document to the Managing Capability Policy.	

11. Alternative Format

This document can be provided in alternative formats on request by emailing:
HRHelpline@ed.ac.uk.