



---

## 1. Introduction

Managing capability is not always straight forward; however the consequences of not dealing with it can be demotivating and cause stress to the individual, demotivate colleagues, negatively impact on the team/Faculty/School/Departmental objectives and damage the reputation of your area or the wider University with key stakeholders. If capability is not addressed it can become more difficult to manage, it is, therefore, important that issues should be dealt with as soon as possible.

## 2. Establishing Conduct or Capability

The following statements may help identify whether under performance is considered to be a matter of the individual's capability or conduct.

- **Capability** – normally when a member of staff **cannot** meet the requirements of a role. These could include, but are not limited to, lack of understating of expectations, not possessing the skills or tools required or ill health.
- **Conduct** - normally when someone **will not** do something, for example because they cannot be bothered or do not want to.

It can be challenging to decide whether the issue is conduct or capability (and sometimes it can be both), if you are unsure, please seek advice from the HR Employment Relations Team. Generally, capability should be managed under the Capability Procedure and conduct should be managed under the Disciplinary Procedure.

## 3. Other Possible Reasons for Performance issues

This list is not exhaustive, but may include:

- poor working relationships causing the employee worry, upset or stress
- bullying or harassment
- physical or mental ill health
- personal problems
- insufficient or inadequate training
- unclear/frequently changing work expectations
- tools and equipment that do not work properly or frequently break down
- poor quality or inadequate supervision and/or support
- lack of understanding about the role's duties, priorities or goals
- unclear instructions
- work overload, causing stress and fatigue

## 4. Ill health

On occasion ill health or poor attendance through sickness absence arises during the capability process. When these situations occur the ill health will not necessarily mean that the capability process ceases/pauses, however, you should consider the reasons for absence and then discuss the most appropriate way of managing the ill health/poor attendance to support the individual. Advice can be sought through the HR Employment Relations Team, including managing the absence through the University's sickness absence procedure.



## Case Study

### Step one

You are recently appointed to head of department. One of your colleagues, Dr Spark, performs well and is well respected in her field of expertise. However, a number of concerns with regard to her behaviour within the group have been identified. She is consistently rude and aggressive (her voice can often be heard from down the corridor) to colleagues and the group feel they have to avoid her when she is in a bad mood.

You arrange to meet with her informally to discuss how her behaviour is negatively impacting on others. During the conversation you try and determine why she behaves in the way she does and outline that different behaviour may result in more positive outputs within the group. You also advise her that whatever the reasons, her behaviour is not acceptable and must improve. Dr Spark says she is never rude to colleagues and cannot remember the last time she shouted at work. She tells you that you are being unreasonable.

Following the meeting you summarise the conversation in writing and share with her.

### Step two

A week after the initial meeting, you walk past the photocopying room and hear her shouting very loudly and aggressively at a colleague who is reduced to tears.

You arrange to meet with her again to discuss the incident.

During the meeting you organise relevant training on interpersonal skills/dealing with difficult situations and assign a mentor to her. You outline the standard expected and explain that continued similar behaviour could result in more formal action. Dr Spark admits she struggles to control her temper and you explore the reasons for this. Dr Spark confirms she feels huge stress at work at the moment, she does commit to trying to control her temper. You offer further support in managing her workload and looking at any activities which could be shared within the group.

Following the meeting, you summarise the conversation in writing to her and share with her.

### Step three

After a number of weeks, you find there is still no improvement, Dr Spark has refused to attend the training courses and has missed all her mentoring sessions. You consider the next course of action. On balance, you feel that this is a conduct rather than a capability issue and refer the matter to be investigated under the Disciplinary Procedure.

## 5. Additional Support

- [HR Employment Relations and Performance Management Team](#)
- [Leadership and Management Academy](#)
- [Health and Wellbeing](#)
- [Sickness Absence Management](#)
- [HR Policy Index](#)