

Competence procedure

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Updated March 2004 following consultation with the trades unions

Updated August 2007 (paragraph 8.2)

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September 2022: reviewed and updated in response to feedback from the Staff DisAbility Network

September 2022: Staff DisAbility Network and unions agreed updates

Competence procedure

1. Purpose

Competence is assessed by reference to skill, aptitude or experience. Where there is perceived to be an unacceptable level of performance of a member of staff or inability to undertake their post, the primary objective of managers shall be to facilitate the improvement of the member of staff, to the required standard, through this procedure, with relevant support. However, it should also be recognised that lack of competence impacts on the university's operations, services to students and other staff and that it is therefore incumbent on managers to take appropriate forms of action, when necessary, as set out below, up to and including dismissal. Normally, dismissal shall only be contemplated as a last resort when previous efforts to effect an improvement in performance have failed. Lack of competence needs to be distinguished from misconduct or negligence, which would normally be dealt with under the disciplinary procedure.

2. Application

- 2.1 These procedures shall apply to all university staff, other than those who are within their probationary period where the appropriate probationary procedures apply.
- 2.2 Issues of competence or unsatisfactory performance should be raised with the member of staff concerned, at the earliest opportunity and can also be raised within the formal annual appraisal interview. Where issues of competence are regarded as serious, they must be dealt with under this procedure, commencing at stage two.
- 2.3 Serious issues of competence are likely to include a fundamental inability to perform the duties and responsibilities of a member of staff's substantive job description. Less serious competence issues are likely to involve such matters as inconsistent performance of routine duties, e.g. recurrent failure to meet reasonable deadlines, recurrent inaccuracy, lack of interpersonal skills, poor time management, poor administration. This list is not exhaustive and these deficiencies may constitute serious lack of competence if they occur repeatedly.
- 2.4 These procedures will be implemented where managers observe deficiencies in performance which, in their view, require improvement by the staff member and which have not responded to an informal approach.
- 2.5 The process may also be initiated where informal or formal** complaints are received by the manager. In such instances, the manager shall conduct an initial investigation, normally involving an initial interview with the complainant to establish the basis and legitimacy of the complaint and may then initiate these procedures

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or take other action if appropriate. Where after interviewing the complainant, as appropriate, the investigating officer considers that there is substance to the complaint, they will inform the member of staff concerned of the complaint and the intention to undertake an investigation. In such cases, the investigating officer will provide the member of staff with as much information as reasonably possible, given the nature of the case.

** Formal complaints are those made in writing by an identified complainant.

3. Principles

- 3.1 Clear guidance and information should be given by the immediate line manager to the member of staff throughout the process. Appropriate confidential support, training and feedback should be offered.
- 3.2 The competence of all staff should be monitored on an ongoing basis through normal managerial interaction with staff and through the relevant performance appraisal and development meetings.
- 3.3 A representative from Human Resources shall attend all formal interviews under this procedure to ensure consistency, fairness and procedural correctness.
- 3.4 The member of staff may be accompanied at any stage of the process by a representative of a trade union of which they are a member, or by a person of their choice excluding advisers acting in a legal capacity*. At all stages, the member of staff shall be given the opportunity to present their case within the time constraints of each stage of the procedure.
- 3.5 Any opinion on matters of professional or similar specialist knowledge or skills should be given by a suitably qualified person. Where the relevance of witnesses is contested by the parties involved, the person or panel conducting the proceedings will determine the suitability of the witness(es) in question and shall have power to disallow inappropriate witnesses.
- 3.6 Occupational Health advice should be sought on whether any reasonable adjustments might assist a member of staff.
- 3.6 Where the line manager considers that the lack of competence is serious they may, having obtained prior approval from the Human Resources Director or their representative to do so, move directly to a formal stage in the process. Exceptionally, where a member of staff commits a single error, or a number of related errors, and the actual or potential consequences are very serious, oral or written warnings under stage 1 or 2 will not normally be appropriate and stage 3 or 4 shall be applied immediately. This

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may occur, for example where lack of competence places the university's reputation or financial position in jeopardy. In extreme cases, where the lack of competence is considered to be sufficiently serious, a stage 4 competence hearing shall be convened without any prior warnings or periods for improvement being applied. In such instances, the line manager must obtain prior approval from the Human Resources Director or their representative before taking this step. The manager will notify the member of staff where stage 3 or 4 is to be implemented without prior warnings and will prepare a written report, which will be copied to the member of staff prior to the Hearing, to the senior manager, as appropriate and to the Human Resources Director.

- 3.7 Whilst it will normally be important to apply the timescales set out in this procedure in order to resolve matters as quickly as possible in the interests of all parties, there may, in the cases of some staff, for example academic staff, be a need for some flexibility depending on the timing of the action in relation to scheduled teaching timetables. In such exceptional circumstances, the Human Resources Director, or their representative, shall determine the extent to which the timescale may be varied.

4. Stage one: informal/investigatory stage

- 4.1 In all cases of lack of competence, the alleged poor performance must be investigated by the immediate line manager. During the investigation, the line manager should outline any concerns in respect of the member of staff's performance and the member of staff should be invited to discuss their performance and to respond to the manager's concerns. They should also be given the opportunity to discuss any specific factors e.g health issues or disabilities which may be affecting their performance at the time. Any relevant personal factors, short or long term, should be confirmed and normally be taken into account while the process is in train. These discussions should be confirmed in writing to the member of staff, clearly outlining the expected standards of performance, with reference to the member of staff's job description and person specification.
- 4.2 When the reason for poor performance is lack of knowledge of the required standard, the deficiency should be remedied with appropriate support from the line manager and no formal action taken.
- 4.3 If, after investigation, the line manager, in conjunction with the Human Resources Director (or their representative) considers that the lack of competence is serious enough to move immediately to the formal competence procedure, the member of staff shall be informed of this and the appropriate stage in the process initiated.

- 4.4 If the problem appears to stem from inadequate training, then a suitable means of further training may be appropriate.
- 4.5 Unsatisfactory performance may occur where the skills of a member of staff which were relevant at the outset of employment, have since become outmoded, for example by new technology, re-organisation or changing patterns of work. Where practicable, help must be given to enable such members of staff to acquire any new skills which may be required. If the primary cause of diminished performance is the changing nature of the job, consideration should be given to the appropriateness of retraining or suitable alternative employment i.e. redeployment. Where redeployment takes place this will be subject to a trial period and the individual will be provided with relevant support and training in order to enable them to gain experience in the role and acquire any new skills required, as discussed and normally agreed with the individual.
- 4.6 After a suitable period of informal support and monitoring, normally to be agreed between the member of staff and their manager, the manager will make a judgement as to whether the member of staff has reached the required standards of performance previously outlined to them (paragraph 4.1 refers), or whether stage two needs to be implemented. In either case, the manager will notify the member of staff in writing and, where stage two is to be implemented, will prepare a written report, which will be copied to the member of staff and to the senior manager.

5. Stage two

- 5.1 When implementation of the formal stages of this competence procedure is considered necessary, the line manager shall meet with the member of staff to inform them of the matter(s) of concern. The concerns shall be clearly explained to the member of staff and an individual programme of support shall be determined by the line manager in consultation with the member of staff. This programme may include the offer of a mentor to assist and support the member of staff while this procedure is in force. Clear guidance about what is expected and the standard of performance required shall be given to the member of staff at the meeting. Where appropriate, this shall be in the form of performance objectives. This shall be confirmed in a file note, which will constitute an oral warning, which shall be copied to the member of staff and placed on the member of staff's Human Resources file.
- 5.2 This stage of the procedure will be in force normally for a period of not more than six weeks. The member of staff will be informed in writing of the timescale and a date set in advance for a formal review interview at the end of the six week period and an interim review at three weeks.

- 5.3 If, at the end of the oral warning period (paragraph 5.1 refers), the member of staff has reached the required standard of competence the manager shall inform the member of staff at the formal review interview (paragraph 5.2 refers) and no further formal action should be taken.
- 5.4 If, at the end of the oral warning period (paragraph 5.1 refers), the member of staff has not reached the required standard, the line manager shall explain the continuing problems to the member of staff and agree a further programme for continued support and training. Normally this review interview shall be followed by the line manager issuing a formal competency warning in writing specifying the shortcomings which have led to the warning being given and indicating that failure to improve to the required standard could lead to a final competency warning and ultimately to dismissal. The formal competency warning will be confirmed in writing and handed personally to the member of staff by the appropriate manager or sent by recorded delivery to the member of staff's home address by the line manager, within ten working days of the review interview. A copy of the warning will be placed on the member of staff's Human Resources file. The formal competency warning shall normally apply for a period of twelve weeks, with a further formal review interview conducted six weeks after the warning has been issued.
- 5.5 Whilst a formal competency warning is in place, the member of staff shall continue to receive continuing guidance, supervision and feedback.
- 5.6 If, at the end of the formal written warning period, the member of staff has reached the required standard of competence the manager shall inform the member of staff at a formal meeting and no further formal action will be taken.

6. Stage three

- 6.1 If at the end of the written competency warning period the member of staff has still not reached the required standard the line manager shall write a report, a copy of which shall be sent to the senior manager, to the Human Resources Director and to the member of staff.
- 6.2 The senior manager shall then require the member of staff to attend a formal interview to discuss the contents of the line manager's report and invite the member of staff to respond to the concerns raised. The member of staff may be accompanied at this meeting (paragraph 3.4 refers).
- 6.3 If judged necessary by the senior manager, following this interview they shall issue the member of staff with a final competency warning which will specify the shortcomings which have led to the

final competency warning being given and indicating that failure to improve to the required standard may lead to dismissal. The final competency warning will be sent by recorded delivery to the member of staff's home address within ten working days of the interview. A copy of the warning will be placed on the member of staff's Human Resources file. The final written warning shall normally be applied for a period of twelve weeks, with a further formal review interview taking place six weeks after the issue of the final competency warning.

- 6.4 At this stage consideration should be given to the possibility of the member of staff being offered suitable, but not necessarily equivalent, alternative employment for which training and support would be provided. If the member of staff is transferred to a lower graded post as a result of formal action under this procedure, their former salary shall not be protected.
- 6.5 Where a member of staff is transferred to an alternative post and unfortunately falls below the required standards of competence in that post whilst their final competency warning applies, action shall be taken in accordance with stage four of this procedure.
- 6.6 When a final competency warning is in place, the member of staff shall continue to receive continuing guidance, supervision and feedback.
- 6.7 If, at the end of the final competency warning period, the member of staff has reached the required standard of competence, the manager shall inform the member of staff at the formal meeting and no further formal action should be taken.

7. Stage four

- 7.1 If at the end of the final competency warning period, the member of staff has still not reached the required standard, or if problems reappear after a period of improvement, the senior manager who issued the final competency warning (paragraph 6.2 refers) shall write a report, a copy of which shall be sent to the Human Resources Director. The Human Resources Director (or their nominated representative) shall then convene a formal stage 4 competence hearing as set out below. This Hearing will be chaired by an authorised officer (see appendix 1) and will include one or more senior managers not previously involved in the case together with a representative from Human Resources. When arranging the composition of competence panels, due regard shall be given to the professional knowledge and skills of the panel members in relation to those of the member of staff subject to the procedure.
- 7.2 At any stage of this procedure referral to an external adviser is permissible with the prior agreement of the Human Resources Director.

- 7.3 The objective of the stage 4 competence hearing will be to determine whether the individual can remain in their current post. Ten working days prior to the hearing taking place all those taking part will receive copies of all relevant documentation including written reports relating to the member of staff's competence and used in previous stages of this procedure.
- 7.4 The case against the member of staff will be presented by the senior manager who issued the final competency warning (paragraph 6.2 refers). The member of staff and/or their representative (paragraph 3.4 refers) will then have the opportunity to respond. Either side may wish to call an expert witness as agreed with the chair of the panel in advance of the hearing.
- 7.5 The panel will determine that appropriate action to be taken at the end of the hearing. Options open to the panel are as follows:
- i) Where the panel considers that there is insufficient evidence of lack of competence and the case is unwarranted, the member of staff will be confirmed in post and no further competence action will be taken;
 - ii) Where the panel considers that there is sufficient evidence of lack of competence and the case is warranted, the panel may recommend redeployment subject to available vacancies; this may include transfer to a lower graded post;
or
 - iii) Dismissal from the university's service.
- 7.6 In the event that the member of staff indicates that they are unable to attend the hearing due to sickness, the Human Resources Director (or their representative) may request a medical certificate to enable the Panel to reach a decision as to whether or not to proceed. Since it is not appropriate for formal competency matters to remain in abeyance indefinitely, the Human Resources Director (or their representative) may consider it appropriate for a competency hearing to be convened where a member of staff has submitted self or medical sickness certification which includes the date of the hearing.

In such circumstances, the member of staff will be encouraged to attend the hearing which will be conducted as sensitively as possible, taking into consideration the nature of the illness. The member of staff will however be informed that the hearing may proceed in their absence. If this is the case the member of staff will be invited to provide a written submission, although the absence of this written submission will not preclude the hearing from taking place.

8. Appeals

8.1 Any member of staff, against whom action under this procedure (other than dismissal) has been taken may formally appeal against that action. Any such appeal must be lodged in writing to the Human Resources Director, within ten working days of the the date of the letter/file note notifying the action and must be on the grounds specified in paragraph 8.3 of this procedure. The warning or action taken will remain in place pending the appeal hearing. The appeal shall be considered by the Human Resources Director (or their nominated representative), assisted by another director. Any member of staff who attended any formal competency meeting or Competency Hearing shall be disqualified from membership of an appeal panel for that case. It is recognised that given the nature of Human Resources advisory role, the Human Resources advisory representative may have given advice on that particular case previously. The decision following the appeal shall be final and shall be communicated in writing to the appellant as soon as possible.

8.2 In the case of dismissal, an appeal may be lodged in writing to the Human Resources Director within ten working days of the receipt of the notification of dismissal letter on the grounds specified in paragraph 8.3 below. The dismissal will remain in place pending the appeal hearing. The Vice-Chancellor and Chief Executive shall hear and determine the appeal, assisted by either the Human Resources Director or in their absence, another article 10 postholder. Any member of staff who attended the competency hearing shall be disqualified from membership of the Appeal Panel for that case. It is recognised that given the nature of Human Resources advisory role, the Human Resources advisory representative may have given advice on that particular case previously. The decision following the appeal shall be final and shall be communicated in writing to the appellant as soon as possible.

8.3 Grounds for appeal

8.3.1 A member of staff may lodge an appeal against competency action on the following grounds:

- i) Where the member of staff contends that a matter of fact has not been properly taken into account or new evidence which could not have been available at the competency hearing has now come to light.
- ii) Where the member of staff disputes the appropriateness of the action decided upon.

- iii) Where the member of staff is able to demonstrate that the procedure has not been properly followed and that this has materially affected the decision.

8.3.2 In all of these cases the material grounds for the appeal must be clearly outlined in writing, in order that the panel can fully understand the nature of the appeal.

8.4 Appeal decisions

The appeal panel will, on behalf of the university, have the power to:

- i) Find the action to have been unwarranted and, if withdrawn, written exoneration will be attached to every file relating to the matter.
- ii) Uphold the action or vary as appropriate, which might include reduction of, the level of action taken; except in the case of article posts.

8.5 Procedure leading to an appeal hearing

8.5.1 An appeal panel shall, unless exceptional circumstances arise, meet to hear the appeal within 21 days of the deadline for appeal submission.

8.5.2 Within five working days of the appeal submission deadline, the appellant must submit to the Human Resources Director any documentary evidence that they wish the appeal panel to consider.

8.5.3 Copies of the original letter confirming the competency action, the notes of the competency meeting or hearing, together with any supporting documentary evidence submitted by the appellant will be provided to the appeal panel and the original panel chair not less than ten working days prior to the date of the appeal hearing. Documentation which is not provided within this timescale will not be accepted by the appeal panel.

8.5.4 An appellant may choose not to attend the appeal hearing, relying instead on their written submission(s) and/or representation by a person of their choice other than a person acting as a legal adviser. Inability to attend, including for medical reasons, will not necessarily prohibit an appeal hearing proceeding. Any application to postpone a hearing on medical grounds must be supported by a medical certificate and accompanying doctor's letter specifying the reasons why the appellant cannot attend the appeal hearing. Any reasonable costs

incurred in obtaining such documentation will be borne by the university.

- 8.5.5 The chair of the original competency meeting or competency hearing and the person who presented the case (where applicable) at that meeting or hearing will both be available, should they be required to give evidence at the appeal hearing.

8.6 Procedure to be followed at an appeal hearing

8.6.1 Normally, an appeal hearing will not constitute a rehearing of the original competency hearing. Any new evidence raised at the appeal hearing will be disallowed unless all parties agree to a short adjournment to apprise themselves of that evidence. Witnesses may only be called to substantiate new evidence that is presented to the appeals panel.

8.6.2 Outlined below is the procedure to be followed normally at appeal hearings:

8.6.2.1 The chair of the appeals panel will make the appropriate introductions.

8.6.2.2 The chair will explain the reason(s) for convening the appeal hearing and the role of the appeals panel. The appeals panel has the power to:

- i) find the action unwarranted and, if withdrawn, written exoneration will be attached to every file relating to the matter; or
- ii) uphold the action or vary, as appropriate, which might include reduction of, the level of action taken.

8.6.2.3 The appellant and/or their representative will be asked to state, in full, the grounds for the appeal and to call any pre-arranged witnesses to support their case.

8.6.2.4 At the end of the appellant's statement and at the end of each witness statement, the chair of the original competency meeting or competency hearing will have the opportunity to put questions to the appellant and to each witness in relation to any new evidence that has been presented.

8.6.2.5 After this process has been completed, each member of the appeal panel and the Human

Resources representative may ask questions of the appellant and their witnesses.

- 8.6.2.6 This process shall continue until the appellant's evidence is completed.
 - 8.6.2.7 It shall then be the turn of the original meeting or hearing chair to make a formal response and present their case, where appropriate, and calling pre-arranged witnesses if required.
 - 8.6.2.8 The appellant and/or their representative will have the opportunity to ask questions of the original meeting or hearing chair and of any witnesses, as will the appeal panel and the Human Resources representative.
 - 8.6.2.9 This process will continue until the management representative has finished making their response.
 - 8.6.2.10 When all the evidence has been heard, both sides will be asked to make a brief summing up statement.
 - 8.6.2.11 The parties involved will then be asked to leave the room while the panel, together with the Human Resources representative, deliberates.
 - 8.6.2.12 The chair will advise the appellant that the decision will be confirmed to them in writing within ten working days of the appeal hearing.
- 8.6.3 After the above procedure has been exhausted, the member of staff will have no further right of appeal within the university.

Appendix to procedure relating to competence

Posts authorised to take action under stage one and stage two:

Vice-Chancellor and Chief Executive
Chief Operating Officer
Pro Vice-Chancellors
Human Resources Director
Chief Finance Officer
University Secretary and Registrar
Directors
Heads of School
Managers on SMG grades
First line managers of departments/units

Posts authorised to issue oral warnings under stage two:

Vice-Chancellor and Chief Executive
Chief Operating Officer
Pro Vice-Chancellors
Human Resources Director
Chief Finance Officer
University Secretary and Registrar
Directors
Heads of School
Managers on SMG grades
First line managers of Departments/Units

Posts authorised to take all action under stage two:

Vice-Chancellor and Chief Executive
Chief Operating Officer
Pro Vice-Chancellors
Human Resources Director
Chief Finance Officer
University Secretary and Registrar
Directors
Heads of School

Posts authorised to take action under stage three:

Vice-Chancellor and Chief Executive
Chief Operating Officer
Pro Vice-Chancellors
Human Resources Director
Chief Finance Officer
University Secretary and Registrar
Heads of School
Directors

**Posts authorised to chair competence hearings under stage 4
(paragraph 7.3 refers)**

Vice-Chancellor and Chief Executive
Chief Operating Officer
Pro Vice-Chancellors
Human Resources Director
Chief Finance Officer
University Secretary and Registrar

Posts Authorised to undertake competence appeals

Vice-Chancellor and Chief Executive
Senior managers who have not previously been involved, together with the
Human Resources Director (or their nominated representative).