# Code of conduct

This section of the handbook includes the following documents

1. Disciplinary policy
2. Grievance policy
3. Bullying and harassment policy
4. Equality policy
5. Capability policy

In respect of the above policies and procedures (“the Policies”), the following guidance is universally applicable.

Principles:

* **Fairness** – All those covered by these Policies will be treated fairly, promptly, and reasonably. Workers will be heard in good faith and there will be no prejudgement of the issue.
* **Informal resolution** – company management will always seek to resolve problems informally, where appropriate.
* **Investigation** – No decision, especially around disciplinary action, will be taken until a case has been investigated. When starting an investigation or other process, there shall be no pre-judgement of the outcome, though the person subject to the procedure will be notified of potential outcomes.
* **Representation** – The worker has the right to be accompanied by a trade union rep or work colleague to any and all meetings that take place under the Policies, if they make a reasonable request. This means providing the employer with enough notice of the representative’s availability, giving their name and contact details so that appropriate information can be shared with them, and making the request in writing to an appropriate person. The unavailability of a companion cannot cause unreasonable delay.
* **Confidentiality** – All documentation and records relating to the Policies will be treated as confidential, stored securely and only accessed by those individuals essential for dealing with the case. They will be kept no longer than necessary in accordance with the Company’s data protection policy. Any breach of confidence may be treated as a disciplinary case of misconduct.
* **Natural Justice** – At all stages of the Policies the worker will be given a as full explanation as is possible of the issue and process, with examples where relevant and a written statement setting out the management case. They will be given the opportunity to state their case before any decision is taken.
* **Right to appeal** – At all formal stages of the Policies, the worker has the right to appeal, in line with the procedure set out below. Insofar as possible, appeals will be heard in an appeal meeting by a Company representative who previously had no involvement with the case.
* **Recordings** – Audio/ visual recordings of proceedingsare not acceptable at any stage of this procedure, unless agreed as a reasonable adjustment. Any use of surveillance evidence submitted must comply with the Company’s data protection policy.

## Scope of Policy

This policy applies to all employees and workers at the Company, including casual, temporary and part-time workers, regardless of hours worked or length of service. Genuinely self-employed contractors will be dealt with in line with the principles in this policy, though aspects of employment law will not apply.

Responsibilities of staff and management

Responsibilities of workers

All staff should actively participate in workplace procedures and co-operate with others in ways that help to resolve issues. Problems at work can often be resolved informally and without need to have recourse to the formal policies, and workers should endeavour to reach informal solutions. Some problems are less amenable to informal resolution, but each situation should be taken on its facts, not prejudged.

It is everyone’s responsibility to create a collegiate, safe and professional workplace, which can involve difficult conversations before resorting to the formal procedure. Staff are reminded that non-cooperation with the Procedures may give rise to disciplinary action.

## Responsibilities of managers

Line managers should ensure that all workers are aware of these Policies and understand their own and the Company’s responsibilities.

Line managers should consider all options for support and informal resolution before formal action is taken.

Line managers should be aware of the risk of discrimination when managing conduct, absence and capability, particularly where the worker's ill health is related to pregnancy or disability. Line managers should have regard to the Equality, Diversity and Inclusion policy when applying the Policies.

The appeal should be made in writing within five working days of receiving the decision.

The appeal meeting will normally be held within five working days of receipt of the request, and follows the same principles as the initial meeting. The appeal will be heard by a different manager. The worker has the right to be accompanied by a colleague or trade union representative at this meeting if you make a reasonable request.

After the meeting, the manager will give a decision, normally within 48 hours. This decision is final.

Arrangements for meetings under the Policies

Any documentation either party intend to use in the meeting should be submitted at least 24 hours in advance of the meeting for circulation.

Informing the worker of the outcome

Appeals

Appeals should be submitted in writing, to a relevant manager, within ten working days of the relevant decision being communicated to the Worker.

Compliance with ACAS Code of Practice

This disciplinary procedure follows the [ACAS Code of Practice on Disciplinary and Grievance Procedures](https://www.acas.org.uk/acas-code-of-practice-on-disciplinary-and-grievance-procedures).

For further information, consult the [Acas guide to discipline and grievance at work](http://www.acas.org.uk/acas-guide-to-discipline-and-grievances-at-work)

# Disciplinary procedure

## 1. Purpose

The Company’s aim is to maintain good standards of conduct. Where conduct falls below what is expected, the company may take action to encourage improvement. This may result in sanctions on the individual, including dismissal.

## 2. Application

#### Conduct, not capability

This is a disciplinary policy to be applied in cases of misconduct: when a worker’s behaviour is wrong. It is not, in the first instance, applicable where a worker’s capability to do their job is in question. In that situation, the capability procedure should be used.

## 3. Stages

#### Informal resolution

The company will try to resolve problems informally where possible. Not every instance of poor conduct requires a formal disciplinary response. This might be the case where the misconduct is a one-off, mild, unintentional, or there are uniquely mitigating circumstances, or it is otherwise appropriate to settle via an informal mechanism. Every instance will be judged on its facts.

Attempting to deal with an issue informally still allows for formal action to be taken, if the informal attempt does not achieve the improvement in conduct.

#### Formal procedure

Stage 1 – first warning

If conduct is unsatisfactory after an investigation, the employee will be given a written warning. Such warnings will be recorded, but disregarded after 12 months of satisfactory service. The employee will also be informed that a final written warning may be considered if there is no sustained satisfactory improvement or change.

A review process will be put in place during this time to support the worker to improve, and to monitor and update on their conduct. The employer may nonetheless initiate further disciplinary action during this period, should the conduct of the employee warrant it.

Where the first offence is sufficiently serious, it may be justifiable to move directly to a final written warning.

Stage 2 – final written warning

If the offence is serious, or there is no improvement in standards, or if a further offence of a similar kind occurs, a final written warning will be given which will include the reason for the warning and a note that if no improvement results within 3 months, action at Stage 3 will be taken.

Stage 3 – dismissal or action short of dismissal

If the conduct or performance has failed to improve, the employee may suffer demotion, disciplinary transfer, loss of seniority (as allowed in the contract) or dismissal.

## Gross misconduct

No employee will be dismissed for a first breach of discipline except in the case of gross misconduct, when the penalty may be dismissal with or without notice or payment in lieu of notice.

If, after investigation, it is confirmed that an employee has committed an offence of the following nature (the list is not exhaustive and contracts should be examined for further categories), the normal consequence will be dismissal without notice or payment in lieu of notice (this may be waived at Company Management’s discretion): theft, damage to property, fraud, negligence, incapacity for work due to being under the influence of alcohol or illegal drugs, physical violence, bullying, harassment, gross incompetence, or gross insubordination.

## Appeals

The worker may appeal any findings against them under this Policy by following the generally applicable Appeals procedure set out above. Appeals should be submitted in writing, to a relevant manager, within ten working days of the relevant decision being communicated to the Worker.

# Grievance procedure

This procedure provides a formal mechanism to address grievances and bring about a satisfactory resolution in a fair but prompt manner.

The procedure is intended to operate simply and rapidly. Every effort will be made to resolve the issue at the earliest possible stage and to settle the issue amicably.

In the case of a grievance being taken out as a counter-grievance, or in response to the instigation of disciplinary action, both issues may be dealt with concurrently. However, if appropriate, a disciplinary procedure may be temporarily suspended in order to deal with the grievance.

## Seeking an informal resolution

Everyone in the workplace has a responsibility to act decently to one another, but it is inevitable that differences of opinion will arise. Staff should seek to resolve problems practically and not turn to a formal process as a first reaction where an informal approach is appropriate.

If a member of staff has a grievance or complaint, it is often possible to deal with this informally. The concerned individual should consider whether they can raise it with the relevant colleague or seek informal guidance from their manager.

However, some issues, particularly relating to discrimination, bullying and harassment may be difficult to deal with informally, and it may be right to move more swiftly or immediately to a formal complaint.

## Formal grievance procedure

A grievance should be raised without unreasonable delay, normally within three months of the incident (or final incident) which gives rise to the complaint.

Submission of written grievance

The worker must detail in writing:

* what the grievance is about
* relevant facts, dates, names etc, including any evidence and witnesses
* the outcome that they are seeking.

The grievance should be submitted to their line-manager. If the grievance concerns their line-manager then the grievance should be submitted to a more senior manager, or another person in a position of responsibility.

Invitation to grievance meeting

Once the written grievance has been submitted, the worker will be invited to a meeting with the employer to discuss the issue.

The composition of the panel will be adjusted according to the nature of the grievance, but will normally consist of two people, one of whom is the decision-maker, and the other in attendance to take a note.

If either party wishes to submit written documents, or call witnesses, they should give notice of this and / or share the documents at least 24 hours before the meeting.

Attendance at the grievance meeting

The worker should take all reasonable steps to attend the meeting on the date / time stated in the employer’s letter.

Where a worker fails to attend or remain throughout a scheduled meeting through circumstances beyond their control, the meeting or the continuation of the meeting should be arranged for another time (within five working days).

If the worker fails to attend a re-arranged meeting without a good reason, a decision will be taken in their absence based on the evidence provided.

Grievance meeting procedure

The panel will invite the worker to re-state their grievance and how they would like to see it resolved. The worker may call witnesses and refer to any documents previously provided to the panel.

If there are any witnesses, they should not be present throughout the meeting. They should be called in, one by one, to give their evidence and asked to leave once they have done so.

The panel may question the worker and any of the witnesses.

The meeting may be adjourned by either the worker or by the panel, if it is considered necessary to gather further information or evidence or clarify any issue. The meeting will be reconvened as soon as possible.

The panel will hold any additional meetings as would, in their view, assist to resolve the grievance.

The grievance panel will then consider the details heard in private.

Grievance meeting decision

The worker will be provided with written confirmation of the decision normally within five working days of the meeting. This will include notifying the worker of their right of appeal and the procedure to be followed. If appropriate, the decision will set out what action the company intends to take to resolve the grievance or if the grievance is not upheld, will explain the reasons.

## Appeals procedure

Where a worker feels that their grievance has not been satisfactorily resolved they can appeal the decision according to the procedure applying to these Policies.

# Equality, diversity and inclusion policy

The Company is committed to encouraging equality, diversity and inclusion among our workforce, and eliminating unlawful discrimination. This organisation will meet its obligations under the Equality Act 2010 and other relevant legislation, as well as seeking to follow best practice guidance.

We aim for our workforce, including independent contractors, to feel respected and able to give their best. Our workforce should be representative of our communities and all section of society.

The Company aims for our audiences, participants and customers to reflect the diversity of our communities and society, and will work to promote access, reduce inequality and prevent discrimination.

In creating and sharing art, training and educating, providing services and facilities, and working with others in the arts and the public more broadly, we are committed to preventing discrimination in any sphere.

## Purpose

1. Provide equality, fairness and respect for our workers, employees and self-employed contractors

2. Not unlawfully discriminate because of the Equality Act 2010 protected characteristics of:

* age
* disability
* gender reassignment
* marriage and civil partnership
* pregnancy and maternity
* race (including colour, nationality, and ethnic or national origin)
* religion or belief
* sex
* sexual orientation

3. Oppose and avoid all forms of unlawful discrimination.

## Our commitments

The organisation commits to:

1. Encourage equality, diversity and inclusion in the workplace as they are good practice, enable creativity and make business sense

2. Create a working environment free of bullying, harassment, victimisation and unlawful discrimination, promoting dignity and respect for all, and where individual differences and the contributions of all staff are recognised and valued.

This commitment includes training managers and all other employees about their rights and responsibilities under the equality, diversity and inclusion policy. Responsibilities include staff conducting themselves to help the organisation provide equal opportunities in employment, and prevent bullying, harassment, victimisation and unlawful discrimination.

All staff should understand they, as well as their employer, can be held liable for acts of bullying, harassment, victimisation and unlawful discrimination, in the course of their employment, against fellow employees, customers, suppliers and the public

3. Take seriously complaints of bullying, harassment, victimisation and unlawful discrimination by fellow employees, customers, suppliers, visitors, the public and any others in the course of the organisation’s work activities.

Such acts will be dealt with as misconduct under the organisation’s grievance and/or disciplinary procedures, and appropriate action will be taken. Particularly serious complaints could amount to gross misconduct and lead to dismissal without notice.

Further, sexual harassment may amount to both an employment rights matter and a criminal matter, such as in sexual assault allegations. In addition, harassment under the Protection from Harassment Act 1997 – which is not limited to circumstances where harassment relates to a protected characteristic – is a criminal offence.

4. Make opportunities for training, development and progress available to all staff, who will be helped and encouraged to develop their full potential, so their talents and resources can be fully utilised to maximise the efficiency of the organisation.

5. Make decisions concerning staff being based on merit (apart from in any necessary and limited exemptions and exceptions allowed under the Equality Act).

6. Review employment practices and procedures when necessary to ensure fairness, and update them and the policy to take account of changes in the law.

7. Monitor the make-up of the workforce regarding information such as age, sex, ethnic background, sexual orientation, religion or belief, and disability in encouraging equality, diversity and inclusion, and in meeting the aims and commitments set out in the equality, diversity and inclusion policy.

## Agreement to follow this policy

The equality, diversity and inclusion policy is fully supported by senior management and has been agreed with recognised trade unions.

# Anti-harassment and bullying policy

This anti-harassment and bullying policy is core to the Company’s commitment to equality, diversity and inclusion. This policy defines what the Company considers to be bullying and harassment, which may occur at work and out of the workplace, such as on tour, or at work-related events or social functions, and sets out the procedure for reporting any incident of bullying or harassment.

Workers should feel that they are treated with dignity and respect. Furthermore, we expect our management to act as role models in their conduct and leadership.

This policy is non-contractual and it does not form part of workers’ terms and conditions with the Company. The Company reserves the right to amend this policy at any time.

## Who must comply with this policy

All workers, including volunteers and board members and other officers, and contractors engaged, contracted or employed by the Company, and third parties such as customers, suppliers or visitors to the Company’s premises are responsible for acting in accordance with the standards detailed in this policy.

All our employees should discourage harassment and bullying by making it clear that they find such behaviour unacceptable and by supporting co-workers who suffer such treatment. Any employee who is aware of any incidence of harassment or bullying should alert a manager or supervisor to enable us to deal with it.

## What happens if this policy is breached

Failure to follow this policy may result in disciplinary action up to and including dismissal / termination of a contract. Breaches of the policy may also represent breaches of the law and may result in legal sanctions.

Disciplinary and / or legal consequences may follow if this policy is breached in a variety of settings:

o in a work situation

o during any situation related to work such as at a social event with colleagues

o against a colleague or other person connected to the employer outside of a work situation, including on social media

o against anyone outside of a work situation where the incident is relevant to their suitability to carry out the role.

Aggravating factors such as abuse of power over a more junior colleague will be considered in deciding what disciplinary action to take.

## What is considered bullying

There is no statutory definition of bullying for employment law purposes, but it is usually accepted that it is offensive, hostile or oppressive behaviour. The main difference from harassment is that bullying behaviour is not related to the equality grounds, but may be done for other reasons, such as jealousy or personal dislike or revenge or insecurity. It is usually repetitious and persistent.

Bullying may include, by way of example:

Physical or psychological threats;

Overbearing and intimidating levels of supervision;

Inappropriate derogatory remarks about someone’s performance.

However, legitimate, reasonable and constructive criticism of a Worker’s performance or behaviour, or reasonable instructions given to Workers will not amount to bullying on their own.

## What is considered harassment

There are three types of harassment in the Equality Act 2010, all of which must relate to a protected characteristic.

* Harassment related to a relevant protected characteristic
* Sexual harassment
* Less favourable treatment of a worker because they submit to or reject sexual harassment, or harassment related to sex or gender reassignment.

Harassment is any unwanted physical, verbal or non-verbal conduct that has the purpose or effect of violating a person’s dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for them. A single incident can amount to harassment.

Sexual harassment is any unwanted conduct, as above, but of a sexual nature.

Harassment and sexual harassment may also constitute separate criminal offences. The Protection from Harassment Act also creates a separate form of harassment.

The following are examples of types of behaviour which may amount to harassment:

* Physical or sexual assault.
* Requests for sexual favours in return for career advancement.
* Unnecessary physical contact.
* Exclusion from social networks and activities or other forms of isolation.
* Compromising suggestions or invitations.
* Suggestive remarks or looks.
* Display of offensive materials, including on a computer screen.
* Tasteless jokes or verbal abuse, including but not limited to any sent by email.
* Offensive remarks or ridicule.
* Dealing inappropriately or inadequately with complaints of harassment.

## Third party harassment

Harassment by individuals other than coworkers can constitute a breach of the law. This includes, but is not limited to, harassment by customers, audience members, clients, contractors, workshop participants, students and freelance creatives.

Third party harassment will not be tolerated. Workers are encouraged to report it to their manager or another appropriate person. The company will take steps to prevent third party harassment happening and / or repeating.

## Implementation

The company will:

* provide a copy of the policy to those we work with, or signpost to it, as appropriate
* provide appropriate training to workers, managers, board members, volunteers and other relevant individuals
* ensure that all complaints of harassment and bullying are dealt with promptly, seriously and confidentially and in accordance with our internal procedure.
* set a good example by treating everyone with fairness, dignity and respect.
* be alert to unacceptable behaviour and will take appropriate action to stop it.
* monitor all incidents of harassment and bullying and review the effectiveness of this policy periodically.

## Dealing with bullying and harassment: procedure

Obtaining assistance

Do not hesitate to ask the company for assistance when using this procedure: for example, if you are a disabled person or a migrant worker and you require some help in writing a grievance letter. We will provide reasonable assistance.

Dealing with grievances informally

In the first instance, an aggrieved person may seek to resolve matters informally. This is a useful way of resolving some problems quickly and easily. For example, if you are concerned about the behaviour of another person you may prefer to speak to that person directly to explain your concerns and try to work out a satisfactory solution between yourselves.

If the informal process fails to resolve your problem, you may then try to find a solution through the formal procedure.

Limitations of the informal procedure

There are limits to the informal option. It is unlikely to be suitable for dealing with serious incidents of misconduct as it will not involve a formal investigation of your concerns or lead to disciplinary action against any other person.

## The formal procedure:

The worker should bring the matter to the Company’s attention as soon as possible. They may do this by writing to their manager, or another appropriate person, with details of the grievance. This should set out brief details of the issue and explain how it may be resolved.

The worker and the company should then follow the grievance procedure as set out.

Notes on use of the grievance procedure for bullying and harassment complaints:

* Where the worker has made an allegation of harassment or bullying against another person, they will be informed that that person has the right to a fair hearing, including the right to have an opportunity to defend the allegation.
* The manager will also consider and discuss with the worker whether special measures are required to ensure that the parties to the complaint avoid further contact while the complaint is being investigated.
* Where the grievance has been upheld, the company will take all reasonably practicable steps to reassure and protect the worker from further such acts.
* Where it was concluded that it is appropriate, disciplinary action may be taken against other parties.

Suspension from work

Suspension of an individual involved in the complaint may be considered where the presence of the person in the workplace:

1. Presents a risk to the safety of themselves or others
2. Risks compromising the integrity of the procedure

This suspension is an administrative measure, not a punishment or indication of guilt or blame. Suspension will be on full pay. However, breaching the terms of a suspension may constitute grounds for disciplinary measures.

## Potential criminal behaviour

If the alleged misconduct is of such a serious nature that it may amount to a criminal offence, the Company will enquire whether it has been reported to the police, and will support the worker to do so if they wish.

Should the complainant not wish to report the matter to the police, the company will have to consider whether to do so. The worker’s wishes will be taken into consideration, but the company must also weight the risks of not reporting the matter.

Reporting the matter to the police will not necessarily stop the company’s own process. The company will liaise with the police and may also take legal advice.

## No detriment for good faith complaints

No one who makes an allegation of harassment in good faith should be subjected to any detriment as a result. If a person believes they have suffered any such treatment, they should inform a manager or other appropriate person immediately. If the matter is not remedied the matter should be raised formally using the Company’s Grievance Procedure.

“Good faith” does not mean that a reported concern must be correct, but it does require that a complainant be truthful when reporting a concern.

Retaliation against someone or the victimisation of someone who reports a problem in good faith may result in sanctions against the retaliator, up to and including termination of their contract with the Company.

If the Company concludes that a complainant has made false allegations maliciously or with a view to personal gain, the person may be subject to disciplinary action.

# Capability procedure

The purpose of the Company’sCapability Procedure is to help staff to achieve and maintain required standards of work performance, while ensuring that all staff are treated fairly.

## Capability issues related to poor performance

This procedure is a framework for dealing with cases of poor performance in a fair and supportive way.

Managing to maintain and improve performance should happen all the time, not only when things go wrong. It is the responsibility of managers to support workers to do their best work, and it is the responsibility of workers to give their best endeavours to the Company. Both parties should identify any performance issues as early as possible and take steps to resolve these issues.

Learning and improvement should be ongoing, and any initial concerns dealt with informally by providing and participating in supervision, training, counselling and support measures to reach the acceptable standard.

This procedure also provides a clear and fair process for the termination of employment in cases where the worker is not reaching the acceptable standard of performance and issues are not able to be resolved.

## Capability issues related to ill-health

Everyone experiences ill-health, and the Company is clear that workers should not endanger their own or other’s health by working when unwell. However, where a worker’s level of sickness absence is of a sufficient level as to impact on their capability to do the job, the capability procedure may be initiated.

The Company will consider options for support of a worker with excessive ill-health absence before moving to termination of employment.

Where a worker has a disability under the Equality Act 2010 or other relevant legislation, the Company will meet its legal obligations to consider reasonable adjustments and to promote equality for disabled people.

## General Principles

## Resolving performance issues informally

Where the line manager first establishes that a worker’s performance is below standard, an informal discussion will be held with the worker to establish the reasons for the poor performance.

A line manager will invite a worker to an informal meeting to discuss the performance issue.

The purpose of this meeting is to find a solution and a way forward should be agreed. The line manager should confirm the expectations of the role and the standards required and will provide a full explanation of where the worker is not meeting the required standard.

The line manager should define the expected standard of performance and give examples. The line manager should then examine the occasions where these standards have not been met by the worker and establish the reasons why the desired level of performance has not been achieved.

The line manager should try and establish if there are any outside factors that could have impacted on the worker’s performance. Some of these could include excessive workloads, limited resources, lack of training, ill-health, changes in management and the worker’s personal circumstances.

The line manager must take into account the worker’s circumstances and perspective on the issue, and any evidence the worker can present to support their case.

Options available at this stage would include:

* Training/re-training/development
* Referral, where appropriate, to Occupational Health or Employee Support Service
* Mentoring / coaching
* Closer supervision for a limited period
* Temporary alterations to duties, which do not change the job, but allow the worker to develop at a slower pace.

Following the discussion on performance and any agreed actions, the Company manager should continue to support the worker, as per good line management practice.

Should the informal discussion establish that the poor performance constitutes worker negligence or misconduct, the Company’s disciplinary procedure will be followed.

If improvements in performance are not achieved informally or the worker is unlikely to be well enough to return to work within a reasonable time period, then a manager may decide that further action may be necessary and the formal procedure will be instigated.

## Formal Procedure

Stage 1: action plan

If the line manager still has concerns about the worker’s ability to work to the required standard, a written action plan with targets should be set with an agreed review date (normally within 4-6 weeks of the informal meeting)

As part of the action plan, any areas or outside factors that have been identified as having had an impact on the worker’s performance, should be addressed. For example, the line manager may review a worker’s workload or offer a worker more training or a mentor to help support them.

Before agreeing to an action plan, workers have the right to discuss and review the action plan with their trade union representative, within a reasonable timeframe of no more than five working days. A clear monitoring and feedback procedure should be established, and the worker needs to be clear on what they have agreed to.

The worker can submit a grievance under the grievance procedure if they feel the action plan imposed on them is unfair.

The consequences of not meeting these deadlines should be made clear.

In the case of ill-health, formal meetings may take place remotely or off-site, where it is not possible to hold an on-site or in-person meeting. The Company will assist the worker to access technology required for participation.

## Stage 2: review meeting

If, following the end of the action plan, standards have not improved, a formal review meeting may be arranged between the line manager and the worker.

This meeting should be held within ten working days of the end of Stage 1, where standards have not improved.

Where the poor performance is sufficiently serious, it may be justifiable to move directly to Stage 3.

The worker must be sent a written invitation to the meeting, stating:

* Examples of where the worker has not met the desired performance
* A copy of this capability procedure
* A copy of the worker’s job description
* Names and job titles of all those invited to the formal meeting.

The letter should outline possible outcomes from the meeting including dismissal, redeployment, and alteration of salary and duties where relevant.

If the worker is unable to attend the meeting they must state the reason for not attending. Failure to attend without a good reason may result in a decision being taken in the worker’s absence, or on the basis of written representations only. Each case will be assessed on its own merits, but the prime objective is to minimise any delays in holding meetings.

The meeting will cover:

* Exploration of the unsatisfactory performance, including reviewing all documentation that was taken earlier in the process to see if any improvements have been made
* A review of the targets that were set and timescales for improvement
* Review of the outcome of any training that has been provided
* Review of any other evidence from the worker and line-manager to establish if any improvements have been made
* Options on possible remedies with any retraining support.

If the capability issues are around ill-health or the worker is disabled, then the manager will need to review if any adjustments have been made to support the worker and if the adjustments have helped, to review details of other support that has been considered, including what has not been done and why, any medical evidence, and if someone is off work, their opinion on how long they might be unable to work or how much disability leave they might need.

During the meeting both parties will outline and explain their position and can table evidence that support their case.

Next steps:

After the meeting the manager will review all the evidence and decide what action to take or recommend. At this stage the following options are available:

* No further action
* After reviewing the evidence, implementing a second action plan (with targets and deadlines), with a date for a second review meeting set within 1-3 months following the first formal meeting
* Requiring changing working practices – for example a change to the worker’s working pattern
* Requiring training.

The worker will be formally warned that a failure to improve to the required standard may result in further sanctions.

In cases where capability issues are on ill-health grounds, the senior manager can recommend that the worker take extended sick leave or disability leave until the worker is certified fit by occupational health. Where a worker refuses to co-operate in providing medical evidence or to undergo an independent medical examination, the worker will be told in writing that a decision will be taken on the basis of the information available.

The worker will be informed of the decision taken by the manager in writing within five working days of the formal meeting.

## Stage 2: review meeting

Following an agreed period of time, if improvements in the worker’s performance have not taken place, the manager will invite the worker to attend a second formal review meeting.

The written confirmation of the meeting should make clear that one of the outcomes from this meeting is dismissal. Other arrangements are the same as the Stage 1 meeting.

The meeting will cover:

* Exploration of the unsatisfactory performance
* Exploration of the areas where the worker has not met the required standard
* Identifying if there are any further measures that could be put in place
* The period for review
* The consequences of failure to improve.

At this stage the following options are available:

* No further action
* Recommending a time period for a further review of progress and setting a date for the review meeting
* Recommending redeployment to another post – this could be to another post with a lower salary.
* In cases where capability issues are on ill-health grounds, the senior manager can recommend that the worker take sick leave until the worker is certified fit by occupational health.
* Dismissal. A decision to dismiss must be approved by a suitably senior manager. Details of the dismissal, the notice period and date of termination and the right of appeal will be confirmed in writing to the worker.

The worker will be informed of the decision taken by the manager in writing within five working days of the Stage 2 formal meeting. The letter will cover:

* The capability issues
* Any decision that has been made and the reasons for that decision
* Any action plan with deadlines and targets with dates of the review meeting
* The worker’s right to appeal
* Notice that a failure to improve standards may result in dismissal (if dismissal is not the outcome of the Stage 2 meeting).

## Appeals

The worker may appeal any findings against them under this Policy by following the generally applicable Appeals procedure set out above. Appeals should be submitted in writing, to a relevant manager, within ten working days of the relevant decision being communicated to the Worker.

## Capability proceedings and disabled workers

Acas is clear that the employer might only be able to justify dismissing a disabled worker, if they can show evidence that proves all of these things [[see further Acas guidance here](https://www.acas.org.uk/supporting-disabled-people/capability-and-performance-when-someone-is-disabled)]:

* the person cannot do their job after everything has been tried to remove all barriers, including all possible support and reasonable adjustments
* there are no other suitable roles the employer can offer as a reasonable adjustment
* there is no other way the work can be done, for example distributing the work differently within a team
* dismissal is the only appropriate action in the circumstances and no reasonable employer would have waited longer before making that decision

Depending on the circumstances, the employer might also need to prove that:

* the person no longer meets the health requirements for the role, because of the progressive nature of their disability
* the person has reached the agreed maximum number of absences, including any adjustments for disability-related absences
* medical evidence shows the person is not likely to return to work within a reasonable timescale, and the person agrees with this
* the employer cannot reasonably continue to support such a high rate of absence
* the person's absence is having a significant impact on the organisation.

## Further information

Always consult [Acas guidance on managing capability issues](https://www.acas.org.uk/capability-procedures).

If the Company knows or has reason to believe that the worker may be disabled, attention should be given to [Acas guidance on supporting disabled workers](https://www.acas.org.uk/supporting-disabled-people/capability-and-performance-when-someone-is-disabled).