



Capability Policy

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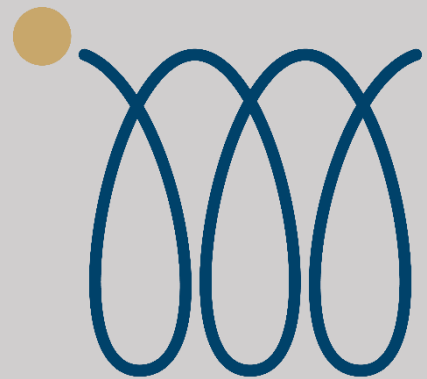
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1. Introduction

This document provides a fair and consistent process for supporting employees where capability has become a cause for concern.

This capability procedure is entirely non-contractual and does not form part of an employee's contract of employment.

Throughout this policy, references to "the Company" mean IMG (UK) Holdings Limited, its subsidiary entities, and those companies connected through common ultimate ownership.

2. Purpose

The policy and procedure provides a framework within which the Company can enable employees to maintain satisfactory performance standards and to manage improved performance and attendance, where necessary.

3. Policy

The Company recognises the difference between a deliberate or reckless failure on the part of an employee to perform to the required standards, and where an employee lacks the skills, knowledge and capability to do their job. Where deliberate or harmful underperformance is identified, this will be dealt with under the Disciplinary policy. This policy is to be used when, despite efforts from the employee and their line manager, the performance is not at the required standard.

Performance may also be affected by personal/family circumstances or ill health. The Company aims to provide a supportive and practical environment in which the employee and manager can work together to increase levels of performance as a result of ill health. Ill health or challenging personal circumstances may also prevent an employee from attending work or performing to the best of the abilities. Issues surrounding frequent and short-term absences are covered in the Sickness Absence policy.

At all capability management stages, the Company will give consideration to whether the unsatisfactory performance/attendance is related to a disability and, if so, whether there are any reasonable adjustments that could be made to the employee's job or other aspects of the working environment. More information on reasonable adjustments can also be found in the Equality, Diversity & Inclusion policy.

4. Informal Capability Procedure

Minor capability issues will often be resolved via timely feedback, counselling and training. Informal discussions may be held with a view to clarifying the required standards of performance or attendance, which is the responsibility of the line manager. All informal feedback is encouraged to be documented via email to the employee or discussed and documented during 1-2-1 meetings.

If performance does not improve as a result of an informal discussion, the employee must be advised of the areas of concerns and where the improvement needs to be made in an informal capability meeting. The employee will be given the opportunity to respond to the concerns raised and to explain any factors that may be affecting their performance or attendance.

The informal meeting should also explore the likely causes of poor performance, identify any training or supervision needs, set clear measurable targets for improvement, explain how these will be assessed and set a performance improvement period. The line manager may decide to use the Performance Improvement Plan as part of this improvement period (please see Appendix 1 for a template).

The improvement period is a set period of time which allows the employee to demonstrate increase capability/performance/outputs. It should be long enough to allow the required tasks and responsibilities to start and finish, so an accurate and fair measure of performance can be taken. This improvement period would normally last 3 – 6 weeks. At the end of the agreed improvement period, a review meeting is called to assess the performance against agreed objectives.

However, in cases where informal discussion with the employee does not lead to a satisfactory improvement, or where the performance/attendance issues are more serious, the following formal capability procedure will be used.

5. Formal Capability Procedure

The Company will notify the employee in writing of the concerns over performance/attendance and will invite the employee to a formal capability review meeting to discuss the matter, the invite will include their right to appeal the outcome and details on how to do so (please see more information on this in section 6 of this policy) The Company will provide sufficient information about the poor performance/attendance and its possible consequences to enable the employee to prepare to answer the case. This will include the provision of copies of written evidence where appropriate.

Having given the employee reasonable notice of the formal capability review meeting (normally 2 working days), the meeting will take place, conducted by a line manager and an HR representative. The employee will be offered the opportunity to be accompanied by either an accredited trade union official or a colleague of their choice. The employee must make every effort to attend the meeting.

The purpose of the capability review meeting is:

- to set out the required standards that the Company considers the employee has not met, with specific examples of where the targets have not been met
- to establish the likely causes of poor performance/attendance (including any reasons why any measures taken so far have not led to the required improvement)
- to allow the employee the opportunity to explain the poor performance/attendance and to ask any relevant questions,
- to consider any mitigating factors, including health, personal circumstances, or potential disability
- to discuss practical support and measures, such as additional training or supervision, which may improve the employee's performance/attendance,
- to set targets for improvement and to set a reasonable timescale for review (reflecting the circumstances of the case).

Following the formal capability review meeting, the Company will decide whether or not formal sanction is justified and, if so, the employee will be informed in writing of the Company's decision. Further details, including the formal capability stages, warning levels, time scales and potential outcomes (including dismissal) are listed in section 6 of this policy.

6. Formal Sanctions

Stage 1: Written improvement notice

At the first stage formal capability review meeting, the employee is likely to be given a formal written improvement notice. This notice will set out the areas in which the employee has not met required performance/attendance standards, with reference to evidence and examples, targets for improvement and any measures (such as additional training or supervision) which will be taken to improve the employee's performance/attendance.

The written improvement notice will be kept on the employee's personnel file but nullified after six months, subject to satisfactory performance/attendance levels.

The employee's performance/attendance will be monitored during the review period. If the employee has achieved the required level of performance/attendance, no further action will be taken. If the employee has not achieved the required level, the matter may be progressed on to Stage 2, and the steps detailed in section 5 shall be repeated in the second stage formal capability review. If the Company feels that there has been substantial but insufficient improvement, the review period may be extended.

Stage 2: Final written improvement notice

A final written improvement notice may be given in the following circumstances:

- Failure to improve performance/attendance during the first stage improvement period
- During the time a written notice period is still 'live'
- In the first instance of serious poor performance

This notice will set out the areas in which the employee has still not met the required performance/attendance standards, targets for improvement and any further measures (such as additional training or supervision) which will be taken with a view to improving the employee's performance/attendance.

The final written improvement notice will be kept on the employee's personnel file but nullified after twelve months, subject to satisfactory performance/attendance levels.

The employee's performance/attendance will be monitored during the review period. If the employee has achieved the required level of performance/attendance, no further action will be taken. If the employee has not achieved the required level, the matter may be progressed on to Stage 3, or if the Company feels that there has been substantial but insufficient improvement, the review period may be extended. Failure to achieve the required improvement at this stage may result in dismissal at stage 3 of the formal capability procedure.

Alternatively, if the employee has achieved the required level of performance/attendance, but the same performance/attendance issues return following the review period and the improvement notice has nulled, consideration may be made to review this as a conduct breach and disciplinary action may be taken.

Stage 3: Dismissal or some other sanction

Failure to improve performance/attendance in response to the procedure so far may lead to dismissal, with appropriate notice. A dismissal decision will only be made after a formal capability review meeting, this will include including full consideration of any health conditions or disabilities that could affect performance/attendance. Dismissal can be authorised only by a senior manager. The employee will be informed of the reasons for dismissal, the appropriate period of notice, the date on which their employment will terminate and how the employee can appeal against the dismissal decision.

If some sanction short of dismissal is imposed (for example, a change of post, including demotion/loss of status or seniority, a reduction in salary or benefits or some other action/sanction), you will receive written statement giving details of the reason for the action imposed, and will be warned that dismissal could result if there is no satisfactory improvement.

Appeals

An employee may appeal against any formal sanction under this capability procedure, including dismissal, to a senior manager or Director of the Company within five working days of the decision.

Appeals should be made in writing and state the grounds for appeal. The employee will be invited to attend an appeal meeting chaired by a senior manager or a Director who has not previously been involved in the case. When necessary, the appeal may be conducted by an external party, such as a solicitor. This may occur where there is a need for an independent appeals officer. In such circumstances, the time required to investigate and conclude the appeal may be extended.

At the appeal meeting, the employee will again be given the chance to state their case and will have the right to be accompanied by a trade union official or a fellow employee of their choice.

Following the meeting, the employee will be informed in writing of the appeal decision. The Company's decision on an appeal will be final.

7. Short Service Staff

The Capability Procedure may be applied flexibly in relation to the employees with shorter periods of service, including those in the early stages of employment, where this is appropriate and proportionate to the circumstances.

However, all decisions will be made fairly and reasonably, and will comply with the relevant employment legislation, including statutory employment rights from day one of employment.

While the full stages of the procedure may be adapted where appropriate, the company will always ensure that all decisions are made fairly. No decision to dismiss will be made unless the employee has been informed of the concerns and given a fair opportunity to respond, so that their views can be properly considered.

8. Long-term sickness

While the Company is keen to assist employees who are absent, it cannot offer indefinite support. The Company will be eager to support any employees on long-term sickness absence back into the workplace as effectively as possible, but the employment may need to be terminated if this cannot be achieved.

Once the employee has exhausted their 28-week entitlement to statutory sick pay – or before – the employee's manager or someone from the HR department will discuss with the employee their likely return to work date and what work duties they may be able to fulfil.

If necessary, the Company will ask the employee's permission to approach their doctor or ask them to consult with a medical practitioner of the Company's choosing, in order to determine the likely length of the absence and identify any reasonable adjustments. If an employee declines to consent to a report from their GP or to attend an occupational health assessment, the Company will be unable to obtain the appropriate medical advice to consider the circumstances. As such the Company will be left with no alternative other than to decide about the appropriate course of action based on the information which it has available at the time.

If it appears that a return to work in the near future is not reasonably practicable, the Company will discuss the situation with the employee, and it is possible that the employee's employment may be terminated under medical grounds.

The Company can require employees who have been absent for one month or more or employees who are expected to be absent for one month or more, to return some or all of their equipment. This may be requested so that the equipment can be redeployed to other employees. Equipment will be returned to employees immediately upon their return to work.

In the event of an employee's absence, the Company may need to access their work email account to ensure continuity of business operations. This access will be limited to retrieving essential

workrelated information and will be conducted in accordance with Company policies on data privacy and security. Employees are encouraged to organise their email and delegate responsibilities as necessary before any planned absence.

If there are regular or persistent absences due to illness, injury etc, the Company is unlikely to be able to support this indefinitely, after making reasonable adjustments. Ultimately, employment may be terminated after full compliance with the Company's termination procedures in these circumstances. See the dismissal section above for more information.

Depending on the situation, the employee may receive pay in lieu of the employee's contractual notice period, and any outstanding holiday pay. If an employee exceeds their allocated holiday entitlement, the company reserves the right to either deduct the excess from their salary or require repayment through other agreed means. The employee may appeal against the decision to dismiss in the same way as described above.

9. Annual Bonus and Salary Increase

Anyone managed under an informal or formal capability process may not be entitled to the discretionary annual bonus and salary increase. Please note that annual bonuses and salary increases are discretionary.

Appendix 1. Performance Improvement Plan

Name:

Role:

Manager:

Date of meeting:

Area(s) of improvement	Action Steps	Support	Timescales	Progress review
<i>What specific improvement/development needs have been identified?</i>	<i>What improvement/ development actions are required? What evidence will demonstrate improvement?</i>	<i>Is any support, training and guidance required to help with the improvement?</i>	<i>When is improvement expected by, and how often will progress be reviewed?</i>	<i>Record progress that has been made in the required areas of improvement</i>

Agreed and signed by:

Employee: _____

Signature: _____

Date: _____

Manager: _____

Signature: _____

Date: _____

