



# ROBERT GORDON UNIVERSITY ABERDEEN

## Ill-health Capability Policy/Procedure

<b>Approved by</b>	The Executive		
<b>Date approved</b>	August 2018	<b>Status</b>	Approved
<b>Policy Owner</b>	Head of HR Operations and Support	<b>Impact assessed</b>	Yes
<b>Version</b>	5	<b>Date of next review</b>	November 2023

## **1.0 Purpose of Policy**

The University is committed to promoting the wellbeing of all staff. It is recognised that, unfortunately, there are some instances where staff will be affected by have a long term illness and in such cases the University's ill-health capability policy will be applied.

## **2.0 Scope of Policy**

The ill-health capability policy applies to all employees in full or part-time employment, on permanent, fixed term or temporary contracts of employment. This policy is not of contractual effect. The University reserves the right to apply a modified ill-health capability procedure.

## **3.0 Absence and Ill-health**

- 3.1 When dealing with absence the distinction should always be made between absences on grounds of medically certificated sickness, and frequent short term or uncertified absence which may call for disciplinary action.
- 3.2 Short term or uncertified sickness absence will be managed through the University's Sickness Absence Policy. Where an employee has been absent for more than 20 working days over 2 or more occasions or has had more than 5 separate occasions of sickness in a 12 month rolling period, the Absence Review Process will be invoked.
- 3.3 Where the absence is due to medically certificated sickness, the issue usually becomes one of capability and should therefore be dealt with under the ill-health capability procedure, modified appropriately to the circumstances and in a timely manner.

## **4.0 Occupational Health**

If an employee is absent due to sickness for a continuous period of 4 weeks, they should be referred to the University's Occupational Health Advisers for review. There may be circumstances where an earlier referral is appropriate, for example stress-related illness.

## **5.0 Capability Procedure**

- 5.1 The capability procedure would be followed normally after obtaining advice from Occupational Health.
- 5.2 In some instances a modified capability procedure may be applied for example where advice from Occupational Health indicates that the employee's health will not improve sufficiently in order to resume work in the foreseeable future, and/or maintain a satisfactory level of attendance, or where the employee is not

willing to co-operate with the process, these procedures may be modified such that the initial meeting will be held under Stage 3 of the process.

- 5.3 As the capability procedure is formal, employees have the right to be accompanied by a companion at each stage. The companion must be an employee within the University, a trade union representative or an official employed by a trade union.
- 5.4 It will not be reasonable for an employee to insist on being accompanied by a companion whose presence will prejudice the hearing or who might have a conflict of interest.
- 5.5 If the companion cannot attend the hearing date, the employee can offer an alternative time and date within 5 working days of the original date.

## **6.0 Stage 1 – Meeting with Manager**

- 6.1 Ahead of the Capability Stage 1 meeting the employee will be referred to occupational health.
- 6.2 The employee will receive reasonable notice of the meeting in writing and will be informed of their right to accompaniment at the stage 1 meeting. An HR representative will also be present at the meeting.
- 6.3 The purpose of the meeting will depend on the circumstances but is normally to:
  - a) jointly review the content of the medical opinion and advice received from the Occupational Health Adviser;
  - b) discuss the employee's own feelings about the content of the report and of any recommendations made;
  - c) establish the employees' own assessment of their condition, whether there has been any improvement in his condition, and how any treatment is going;
  - d) discuss any possible return to work, if this has been confirmed as an option by the Occupational Health Adviser;
  - e) look at any possible adaptation of duties or suitable alternative work which may enable return to work for the employee;
  - f) draw up, in agreement with the employee, a return to work programme with review dates in order to discuss progress and amend if necessary; and
  - g) consider, and if possible agree, the next steps including a future review date.
- 6.4 If a return to work is not an option for the near future, normally 4-12 weeks, based on medical advice a Stage 2 review meeting should be arranged. If a return to work is not an option for the

foreseeable future more than 12 weeks, the manager may progress to Stage 3 of the capability procedure.

- 6.5 The outcome of the meeting will be confirmed in writing to the employee without unreasonable delay.

## **7.0 Stage 2 – Review of Progress**

- 7.1 The manager will arrange a meeting at the review date and an HR representative will be present.
- 7.2 The employee has the right to be accompanied. The employee will receive reasonable notice of the meeting in writing.
- 7.3 The manager will review progress with the employee, and evaluate any improvement in health. The manager may then decide:
- a) to facilitate a return to work with an agreed programme;  
or
  - b) to set another review date if further improvement is likely, normally 4-12 weeks;
  - c) to progress to stage 3.
- 7.4 The outcome of the meeting will be confirmed in writing to the employee without unreasonable delay.

## **8.0 Stage 3 - Review Meeting with Senior Manager**

- 8.1 Progression to stage 3 will occur when the University has medical advice to the effect that the employee's health will not improve sufficiently in order to resume work and maintain a satisfactory level of attendance or for the reasons set out in section 5.2.
- 8.2 A senior manager will hold the meeting and the employee would receive reasonable notice of the meeting in writing outlining the reasons for the meeting and the right to be accompanied. A HR representative will be present at the meeting.
- 8.3 Since dismissal may be an outcome of this meeting the senior manager must either be a member of the Executive or at SMG level.
- 8.4 The discussion that takes place during such a meeting should normally include:
- a) the manager's concerns about the employee's health;
  - b) the professional medical report regarding the employee's state of health and advice given to the employer;
  - c) any review period set and any improvement in the health of the employee;
  - d) the employee's feelings regarding his own state of health and how he feels about the future;

- e) any possible adaptation of duties or adjustments or suitable alternative work which may enable a return to work.
- f) Any steps taken to date to facilitate a return to work.

8.5 The possible outcomes of this meeting could be:

- a) to re-initiate a review programme between the employee and their manager, if it is felt appropriate;
- b) agree to proceed with an application for ill health retirement.;
- c) to reach agreement by which employment will end,; or
- d) to decide to terminate employment on capability/health grounds.

8.6 Where there is conflicting medical opinion it is for the University to then decide what advice to take. Normally the University's OH provider will be viewed as independent medical advice.

8.7 The manager shall write to the employee as soon as reasonably possible following the meeting clearly stating the outcome and the reasons for the decision.

#### **9.0 Stage 4 – Appeal**

9.1 Where the decision is to take action short of dismissal or to dismiss, the employee has the right of appeal against the decision.

9.2 The employee should appeal in writing within 10 working days of and according with instructions in the appeal outcome letter.

9.3 The appeal will be heard without unreasonable delay.

9.4 The appeal will be heard by a manager who has not previously been involved, and who is at least at the same level of seniority of the hearing manager if not more senior.

9.5 Employees have the right to be accompanied as per section 6.2.

9.6 The employee will be informed in writing of the appeal decision as soon as possible. There is no further right of appeal.

**Human Resources Department  
August 2018**