



University of
St Andrews

Capability policy: For long-term absence

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Purpose	This policy may be used where an employee has been absent from work on a long-term, but not necessarily continuous basis due to ill health.

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1. Introduction

1.1 The following policy may be followed where an employee has been absent from work on a long-term, but not necessarily continuous basis due to ill health. Its purpose is to ensure that the University gives the employee full encouragement and assistance in relation to their return to work. Where appropriate, the University will consider redeployment, retraining, and workplace adjustments. If these prove impracticable or unsuccessful, the University may consider termination of employment as an outcome.

2. General principles

2.1 The University will endeavour to maintain regular contact with the employee throughout the period of absence (unless medical evidence indicates that such contact may be harmful to the employee).

2.2 The University will normally refer all employees to [Occupational Health](#) after an absence period of 21 calendar days or more, as outlined in the [sickness absence policy](#).

2.3 The employee has a responsibility to ensure that, as outlined in the [sickness absence policy](#), the University is kept fully informed during the absence.

2.4 If not already known, the University will ascertain the reason for the absence from the employee (by way of an informal meeting with the employee, if possible). If the employee is absent, this meeting may need to take place at the employee's home or other location at a time and date convenient to the employee.

2.5 This document is a statement of the University's policy and procedure and does not form part of any contract of employment or otherwise have contractual effect. The University reserves the right, with the agreement of all the parties involved, to make practical/operational changes to these documented procedures to suit individual case requirements or changes in legislation.

3. Ill health retirement

3.1 It is usual practice for the University to explore the possibility of ill health retirement with the employee prior to implementing any other termination of employment on grounds of capability. Ill health retirement is always subject to the rules of the relevant pension scheme.

4. Procedures

4.1 Medical reports

4.1.1 The University will consider the evidence available as to whether improvement in the employee's medical condition is likely, by seeking consent from the employee to:

- Contact the employee's GP or Specialist; and/or;
- Obtain a report from the University's own doctor or an independent Occupational Health Consultant.

4.1.2 The employee will be informed of their rights under the Access to Medical Reports Act if the University requests a report from the employee's GP. Application for a GP's report will only be made with the employee's permission.

- 4.1.3 In the event that the employee does not provide the information sought or refuses to grant permission, the University will proceed on the basis of the information that it does have.
- 4.1.4 Where a medical report has been obtained, the University will consider any recommendations in relation to actions that may be taken to support the employee in his or her return to work.
- 4.1.5 The University will endeavour to meet with the employee to discuss the terms of the medical report obtained, any recommendations therein, whether any measures can be taken by the University to assist the employee in returning to work and the employee's own view on the situation.

4.2 Invitation to capability meeting

- 4.2.1 If the University considers that potentially the employee is unlikely to return to their role or a suitable alternative role within a reasonable time, then it may convene a capability meeting. The employee will receive advance written notice of a capability meeting from the University. The notice letter will:
- set out the date, time and place of the meeting;
 - set out the reasons for holding the meeting and what is to be discussed at the meeting, in sufficient detail to enable the employee to respond appropriately;
 - advise of the employee's right to be accompanied by a colleague or trade union representative;
 - provide copies of any other supporting evidence on which the University intends to rely; and
 - notify the employee that a potential outcome of the meeting may be termination of employment on the grounds of ill health capability.

4.3 Capability meeting

- 4.3.1 A capability meeting will normally be convened within 4 weeks of the employee receiving the notice of the meeting and accompanying papers. No decision will be made as to whether any capability action is to be taken or the nature of any capability action to be taken before the meeting takes place.
- 4.3.2 Where possible, the meeting will usually be chaired by the Head of School/Unit unless previously involved in the case or a reasonable or substantive objection to this is raised, and another senior member of a different School/Unit, who will serve as a panel member (the "Panel"). A member of Human Resources will be in attendance.
- 4.3.3 At the meeting, the Panel will consider the matter fully, including the recommendations made in the medical report or associated paperwork and considerations in relation to whether:
- any recommended adjustments are viable within a reasonable time frame;
 - there is a possibility of suitable alternative roles/duties;
 - a further medical report is necessary; and
 - termination of employment is an appropriate outcome.
- 4.3.4 In taking a decision as to what action may be taken in relation to the employee's absence, the University will consider the:

- nature of the illness and prognosis from the evidence available;
- effect of continued absence on the efficient service delivery and impact on the School/Unit;
- employee's representations on the situation.

4.3.5 Employees are entitled to be accompanied at any formal hearing (including any appeal hearing) by a work colleague or trade union representative. The person accompanying the employee is entitled to advise the employee, address the hearing and ask questions but not to answer questions on the employee's behalf.

4.4 Outcome

4.4.1 Written notification of the outcome of the hearing will be sent to the employee within 7 working days of the hearing. The letter will inform the employee of:

- any proposed action to be taken by the employee;
- any action to be taken by the University; and
- the right of appeal.

4.4.2 A potential outcome of the capability meeting may be termination of employment on the grounds of capability.

5. Appeals

5.1 The employee is entitled to appeal the decision of the Panel and any appeal should be submitted to the Director of Human Resources within 10 working days of receipt of the written confirmation of the action. Consideration may be given to extending this time period on submission of mitigating circumstances to the Director of Human Resources. The employee should specify the grounds for the appeal against the action taken.

5.2 The Appeal Panel will consist of

- A University representative (the "Appeal Chair") who has not previously been involved in the case or in the case of an academic, an external person drawn from a panel appointed by the Court following consultation with the recognised Trade Unions, which may include Non-Executive members of Court;
- A manager from outwith the School/Unit and with no previous involvement in the case;
- In addition, although it is not a requirement, a TU representative from one of the non-represented unions (i.e. not recognised as representing the staff group of the employee) will normally be asked to sit on the panel. This TU representative will be a full panel member.
- A member of Human Resources will be in attendance.

5.3 The employee is entitled to be accompanied at the appeal by a colleague or trade union representative.

5.4 The appeal panel may:

- uphold the original decision; or
- annul the original decision; or
- uphold the original decision in whole or in part but substitute an alternative action.

5.5 The decision of the appeal panel will be final and forms the final stage of the University's procedures.

Note:

- *For the purpose of this document a working day is defined as a weekday Monday-Friday but excluding public holidays and such additional days as when the University is deemed closed.*
- *It is the University's policy not to allow audio or visual recording of meetings or hearings.*

Version number	Purpose / changes	Document status	Author of changes, role and school / unit	Date
1.0	Migration of policies to the Governance Zone.	Published	Lisa Stewart, Human Resources	10/06/2019
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