

Conduct and capability procedures when managing performance

If an employer believes an employee's performance needs to improve, it's important they:

- try to understand the reasons why
- take steps to support and improve the employee's performance

Taking steps informally can help resolve issues and prevent further action.

If the employee's performance still does not improve, an employer may decide to investigate more formally to help decide on the most appropriate next steps.

Deciding on the best procedure

The employer should meet with the employee to find out more about the reasons for the issue. This is to help work out whether it's due to either:

- conduct
- capability

If it's a conduct issue

Conduct is about an employee's behaviour at work.

Usually it's a conduct issue if the employee has control over their actions. For example:

- calling in sick when they're not genuinely ill
- if employed as a chef they have repeatedly not followed food hygiene rules, even after they have had further training and confirmed they understand the rules
- they're absent without permission – some might call this 'unauthorised absence' or 'absent without leave' (awol)

It's important the employer gets as much information as they can and does not jump to conclusions. For example, if they're not sure whether a medical issue is genuine they can [ask the employee's doctor for relevant information](#).

To deal with a conduct issue, the employer should [follow a disciplinary procedure](#).

If it's a capability issue

Capability is about an employee's ability to do their job.

Usually it's a capability issue if the employee has no control over it. For example, if an employee becomes unable to do their job due to an illness or disability, and adjustments or support could not help.

For a capability issue, the employer should follow either:

- a capability procedure, if they have one
- a [performance management](#) procedure

If it's not clear

It's not always clear whether an employee's poor performance is due to capability or conduct. But the employer should always carry out a full and fair procedure before deciding on any action.

Managing capability issues

To deal with a capability issue, the employer should follow a procedure that encourages their employee to improve.

This is to give the employee the chance to get better and to stop any further problems arising.

The employer could provide their employee with:

- support, for example making changes to their work or arranging counselling sessions
- training to help them do their job better

In some workplaces, this might include a [performance management](#) procedure – check your workplace's policy.

If the employee has a disability that's related to the capability issue, the employer must take reasonable steps to support them.

[Find out more about capability and performance when someone's disabled](#)

If the employer has tried all options without success, they could consider [dismissal](#).

If the employee is absent or sick

Even if the employee is ill, they should co-operate as much as they can with any investigation as part of a disciplinary or capability procedure.

[Find out more about employee absence when disciplinary action is being considered](#)