

Catch22 policy

Capability Policy

Contents

1. Summary	2
2. What is the policy about?	2
3. Who is the policy for?	2
4. Policy statement.....	2
5. Setting the standard.....	3
6. Informal procedure.....	3
7. Formal procedure.....	4
7.1 Arrangements for formal meetings	4
7.2 Right to be accompanied	4
7.3 Stage one formal review meeting.....	4
7.4 Performance Improvement Plan.....	5
7.5 Stage two formal review meeting	6
7.6 Stage three final review meeting	7
8. Gross incapability and suspension	8
9. The appeals mechanism	8
10. Currency of decisions	9
11. Capability and qualifications	9
Annex 1: Equality Impact Assessment	10
Summary.....	10
Potential Impacts, positive and negative	10
More information/notes.....	12

Catch22 reserves the right to amend this policy, following consultation, where appropriate.

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Queries to:	<i>Peopleservices@catch-22.org.uk</i>
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Catch22 group, entity, hub:	<i>Catch22</i>
4Policies level (all staff or managers only)	<i>All Staff</i>

1. Summary

The aim of the Capability Policy is to provide additional support to employees who are having difficulty in meeting the requirements of their role. These difficulties are not those that might be expected when an employee is new to his or her role and learning what is expected, but for those circumstances where, despite management support, the employee remains lacking in some important area of ability, skill, competence or knowledge and is consequently unable to carry out the full gamut of necessary duties to the required standard.

2. What is the policy about?

This policy provides an opportunity for employees to perform at the required standards by:

- encouragement, support and assistance;
- discussion and consideration of all relevant factors.

3. Who is the policy for?

This policy applies to all Catch22 employees, with the exception of those in their probationary period, those who are incapable through long or short term sickness absence or those who have accepted voluntary redundancy.

4. Policy statement

Catch22 is committed to high standards and the delivery of quality services. High value is placed on the contribution that each individual can make towards the achievement of Catch22's objectives. Catch22 recognises the difference between:

- a deliberate failure on the part of the employee to perform to the standards of which s/he is capable, in which case the disciplinary procedure will be used; and
- a case of incapability, where an employee is lacking in knowledge, skill or ability and so cannot carry out his/her duties to the standard required, in which case this policy will be used in an attempt to improve performance and bring the employee up to the required standard.

If it becomes clear that an employee is not performing to the required standard due to a lack of knowledge, skill or ability, Catch22 will:

- make the employee aware that s/he is not performing to the required standard and inform him/her that insufficient improvement means that his/her on-going employment is at risk;
- provide a path for improvement by giving the employee a reasonable period to improve and undertake any training that is deemed necessary; and
- assess the need for and likely impact of any additional support and where appropriate put this in place.

If, ultimately the employee is unable to improve to the required standard, the line manager will consider whether or not the employee can be moved to alternative work more suited to his/her abilities. Once all reasonable and practicable steps have been taken to assist the employee to improve or find him/her alternative work, it may become necessary to terminate his/her contract of employment.

5. Setting the standard

All our employees are expected to deliver their day-to-day work in a timely and professional manner, in accordance with the requirements of the employee's individual job description and annual objectives.

Poor performance occurs where the quality of work is below the required standard owing to a lack of ability, skill or knowledge.

Catch22 will aim to ensure that:

- employees understand what is expected of them in terms of performance;
- that performance is monitored via regular supervision meetings with the employee's line manager and via the annual Performance, Engagement and Feedback (PEF) process;
- employees are given appropriate training and support to meet those standards.

Employees are not normally dismissed for performance reasons without having first received previous warnings and been given an opportunity to improve.

6. Informal procedure

As part of usual supervision arrangements, the employee's line manager will promptly assess the cause of the employee's poor performance and agree with the employee the actions/standards required for improvement.

Possible causes for the standard of work not being at the required level could include:

- lack of skills;
- inadequate training;
- lack of support;
- lack of tools or other resources; and/or
- lack of communication or problematic working relationships.

The employee's line manager carrying out this initial assessment will give the employee factual examples of his/her unsatisfactory performance and the employee will be asked for his/her explanation, which will subsequently be followed up and assessed.

Evidence of this assessment, and the actions agreed with the employee in an attempt to remedy matters should be recorded in supervision notes or in notes of informal one to one meeting(s) should they be especially convened to discuss these issues.

As part of this process, the employee may be given an informal caution by the line manager.

Where informal discussions have not resulted in a satisfactory improvement after a reasonable period of time (to be agreed between the line manager and the employee following discussion), the line manager may give the employee further informal cautions or may invoke the formal procedure set out below.

If the employee's poor performance is as a result of a domestic, personal or work-related problem, the employee should explain this to his/her line-manager, who will address these matters with sensitivity and consider the matters in mitigation of whether to move to a formal procedure.

7. Formal procedure

If the employee has not responded positively to informal management action and reached the required standard of work, then the formal procedure should be invoked.

There are three main stages to the formal procedure:

- stage one formal review meeting
- stage two formal review meeting
- stage three final review meeting

7.1 Arrangements for formal meetings

All meetings under the formal procedure will be subject to the following arrangements:

- the employee should be invited in writing and given at least 5 working days' notice;
- the letter should advise the employee who will be present at the meeting and that the employee can be accompanied (see below);
- the letter should explain the purpose of the meeting is to review the employee's unsatisfactory performance at work;
- the employee should be provided with copies of any documentation to be considered at the meeting;
- the outcome should be confirmed in writing within 5 working days;
- the outcome letter should confirm the consequences if performance does not reach a satisfactory level (i.e. formal written warning, a capability transfer or dismissal).

7.2 Right to be accompanied

Employees have the right to be accompanied by a Trade Union representative, LinkUp Partner or workplace colleague at all formal meetings under this policy.

It is the responsibility of the employee to arrange their own representation and to provide them with copies of all the relevant paperwork.

In advance of the meeting, the employee must notify the Chair who will be accompanying them.

If the employee's chosen companion is unable to attend the meeting, the employee's line manager will rearrange the meeting at a time/date proposed by the employee provided the alternative time/date is both reasonable and, unless mutually agreed, not more than 5 working days after the date originally proposed.

7.3 Stage one formal review meeting

Where informal action does not lead to a satisfactory improvement in the employee's performance, the employee will be invited to a stage one formal review meeting.

The meeting will be conducted by the employee's line manager (provided they are Grade G or above) or the employee's Operations Manager / Assistant Director (if the employee's manager is below Grade G).

The purpose of the stage one formal review meeting is to discuss the employee's performance and decide what measures should be taken, with a view to securing the required improvement in the employee's performance.

At the meeting, the line manager will:

- set out the standards of work performance expected of the employee in the areas under consideration;
- explain how the employee's performance has fallen short of what is required and the impact of this on service delivery;
- provide the employee with factual examples of his/her unsatisfactory performance;
- confirm that any informal measures have failed to improve performance to the level required and that the poor performance is due to a lack of skills, abilities or competencies;
- provide the employee with an opportunity to explain and/or give reasons for why his/her work has not met the required standards;
- discuss the way forward and ensure that a suitable Performance Improvement Plan is drawn up (see below);
- explain that failure to reach the required standard during the review period may lead to further formal action, including possible termination of employment on the grounds of capability.

A first written warning should be issued if the line manager concludes that reasonable steps have been taken by the line manager that should have allowed the employee to perform to an acceptable standard, but these measures have not worked.

Where an employee is issued with a first written warning in accordance with this procedure, they will have a right of appeal (see below).

The line manager should follow up the meeting in writing within 5 working days. A copy of the meeting notes and Performance Improvement Plan should be included with the letter. A copy of the documents will be saved on the employee's personnel file.

The employee should be asked to sign the notes of the meeting to confirm their agreement to the content. If the employee does not agree with the content, s/he should raise his/her specific concerns within 5 working days of receipt. Any agreed amendments should then be made within 5 working days of the concerns being lodged. If the line manager does not agree with the employee's suggested amendments, the employee's suggested changes should be annexed to the line manager's copy of the notes and both kept on file.

7.4 Performance Improvement Plan

A Performance Improvement Plan (PIP) is a series of measures designed to help improve the employee's performance. The plan will be discussed with the employee and ideally agreed, although Catch22 reserves the right to insist on any aspect of the Performance Improvement Plan in the absence of such agreement.

Each plan will be tailored to the particular situation, and will apply SMART (Specific, Measurable, Achievable, Reasonable and Timebound) objectives, incorporating the following elements:

- Targets – the Performance Improvement Plan will set out the standards of the job being sought and the specific targets that need to be achieved, either by the end of the

plan or at identifiable stages within it. The plan will also set out how, and on what criteria, the employee's performance will be assessed.

- Timescale – the overall timescale in which the necessary improvement must be achieved will be set out, together with the timescale for reaching individual milestones where appropriate.
- Measures – the Performance Improvement Plan will specify what measures will be taken by Catch22 to support the employee in improving their performance. Such measures may include: training; additional supervision; the reallocation of other duties; or the provision of additional support from colleagues etc.
- Feedback – as part of the Performance Improvement Plan, the employee will be given regular feedback from their line manager indicating the extent to which the employee is on track to deliver the improvements set out in the plan.
- Review – if, at any stage, the line manager feels that the Performance Improvement Plan is not progressing in a satisfactory way, a further meeting may be held with the employee to discuss the issue. As a result of such a meeting, the line manager may amend or extend any part of the plan.

At the end of the monitoring period, the employee's performance will be reviewed by their line manager.

If satisfactory progress has been made, the employee will be notified of this fact in writing.

However, if the line manager feels that progress has been insufficient, they should discuss their concerns with their People Partner, which may result in a decision to:

- extend and/or amend the Performance Improvement Plan to such extent as the manager considers appropriate;
- refer the matter to a meeting under stage two of this procedure.

7.5 Stage two formal review meeting

If the Performance Improvement Plan has not led to sufficient improvement in the employee's performance, the employee will be invited to attend a stage two formal review meeting.

The meeting will be conducted by the employee's line manager (provided they are Grade G or above) or the employee's Operations Manager / Assistant Director (if the employee's manager is below Grade G).

The procedure followed at this stage should mirror the procedure followed at the stage one formal review meeting (see above).

If the manager considers that there is reasonable further action that could be taken to improve the employee's performance then a further Performance Improvement Plan should be drawn up, discussed and implemented.

A final written warning should be issued if the line manager concludes that reasonable steps have been taken by the line manager that should have allowed the employee to perform to an acceptable standard, but that these measures have not worked.

Where an employee is issued with a final written warning in accordance with this procedure, they will have a right of appeal (see below).

The line manager should follow up the meeting in writing within 5 working days. A copy of the meeting notes and Performance Improvement Plan should be included with the letter. A copy of the documents will be saved on the employee's personnel file.

At the end of the monitoring period, the employee's performance will be reviewed by their line manager.

If satisfactory progress has been made, the employee will be notified of this fact in writing.

However, if the line manager feels that progress has been insufficient, they should discuss their concerns with their People Partner, which may result in a decision to:

- extend and/or amend the Performance Improvement Plan to such extent as the manager considers appropriate;
- refer the matter to a meeting under stage three of this procedure.

7.6 Stage three final review meeting

Before consideration is given to whether dismissal of an employee on the grounds of capability is appropriate, the line manager should have followed the above formal stages of the capability procedure. If after a final written warning there continues to be no improvement in the employee's performance, then a stage three final review meeting should be held.

The meeting should be chaired by an impartial manager at Grade G or above, who is more senior to the employee who is subject to the stage 3 final review meeting and who has not been involved in proceedings previously, supported by a People Partner.

At the meeting, the manager will:

- explain to the employee that the purpose of the meeting is to discuss the employee's continued unsatisfactory performance;
- review all the evidence, including meeting notes and Performance Improvement Plans;
- provide the employee with an opportunity to explain and/or give reasons for why his/her work has not met the required standards;
- establish if there are any further steps or targets that can be put in place to help the employee to improve his/her performance;
- inform the employee of the possible outcomes of the meeting (see below).

The outcome of the meeting may be:

- a decision to take no further action;
- the issuing of a further Performance Improvement Plan;
- an offer to redeploy the employee to alternative work; or
- a decision to dismiss the employee.

Any offer to redeploy the employee will be entirely at Catch22's discretion. Such an offer will be made only where Catch22 is confident that the employee will be able to perform well in the redeployed role. It will normally be offered only as an alternative to dismissal in circumstances in which the organisation is satisfied that the employee should no longer be allowed to continue to work in their current role. Where such work is found, offered and accepted, the rate of pay, grade and other conditions are then applicable to the new post being offered. While the employee is free to refuse any offer of redeployment, the only alternative available will usually be dismissal.

Where an employee is dismissed in accordance with this procedure, they will have a right of appeal (see below).

The outcome of the meeting should be confirmed to the employee in writing within 5 working days.

8. Gross incapability and suspension

In exceptional circumstances there may be cases of gross incapability, the seriousness of which may make future employment impossible. One example might be action by an employee, which puts other employees at serious risk of life and limb injury.

In all such cases, a Director must be satisfied that the situation is not one of gross misconduct i.e. a wilful act by the employee. If the circumstances do constitute gross misconduct, action should be taken in accordance with Catch22's Disciplinary Policy.

In some cases, it may be appropriate for Catch22 to consider suspension. However, it should also be considered whether the alleged gross incapability or incompetence means that the employee cannot be allowed to work on any other duties. If it is possible to find alternative or reduced duties then this should be the preferred option to that of suspension (please refer to Catch22's Disciplinary policy for further information about suspension).

The seriousness of the lack of capability may require that a hearing be convened and this could lead to the employee's dismissal without prior written warnings having been issued.

9. The appeals mechanism

An employee has the right to appeal against the outcome of any formal stages of this procedure if it results in a first or final written warning, or dismissal. An employee may appeal on one or more of the following grounds:

- the proper procedure was not followed and this materially affected the decision;
- the decision reached was not supported by the evidence presented;
- the sanction applied was too severe, taking into account the mitigating circumstances;
- new evidence which is pertinent, goes to the heart of the case, and was not reasonably available at the time, has become available.

An employee who wishes to appeal must write to the Chair of the original review meeting (copying in their People Partner), setting out the grounds of their appeal, within 5 working days of receiving the outcome letter.

An appeal will be acknowledged within 5 working days with a hearing convened if possible within 5 working days, but if for any reason this is not possible, within a reasonable period, after the appeal is lodged.

The appeal hearing will be chaired by an impartial manager at Grade G or above, who is more senior to the manager who made the decision which is being appealed, and who has not been involved in proceedings previously, supported by a People Partner.

The employee will be entitled to be accompanied by a workplace colleague, LinkUp Partner or trade union representative.

At the hearing, the decision to impose the sanction will be reviewed and the employee will be entitled to make representations about the appropriateness of that decision.

Terminating employment will not be deferred to a future date, even if the employee appeals. This means that the appeal hearing may take place after the employee has left Catch22. If the employee is reinstated; their service and pay will be backdated to the day after dismissal.

The outcome of the appeal will be confirmed to the employee in writing, within 5 working days, explaining the grounds on which the decision was reached.

The outcome of the appeal will be final and there is no further right of appeal.

10. Currency of decisions

A first written warning will normally have a time limit of 12 months, while the time limit for a final written warning will normally be 24 months. After the relevant period of time and subject to the required standards being achieved, Catch22 will disregard the warning, but retain it on the employee's personnel record. In each case, Catch22 will specify the length of time that the warning will remain "live" but reserves the right to extend the time period in appropriate circumstances. Should further concerns about capability need to be considered, the procedure can be re-commenced either at the same or subsequent stage.

11. Capability and qualifications

Where an employee no longer has the correct qualifications and/or professional memberships to continue to perform their duties (e.g. due to changing commissioner or legal requirements), the line manager will consider whether or not adjustments can be made to the existing job so that the employee's employment can continue. Where the qualification in question is fundamental to the employee's duties and s/he cannot continue without them, the line manager will consider whether or not the employee can be re-deployed to another post. The line manager will also give consideration to whether the employee can be returned to his/her original duties, once the qualification(s) have been obtained. When all attempts have been exhausted to adjust the employee's existing duties or to find an alternative post, it may as a last resort become necessary to terminate his/her contract of employment.

12. Related policies

Grievance Policy
Disciplinary Policy
Probation Policy
Managing Sickness Absence Policy
Redundancy and Security of Employment Policy

Annex 1: Equality Impact Assessment

Summary

This EIA is for:	Capability Policy and Procedure
EIA completed by:	Christina Duru (Chief People Officer)
Date of assessment:	April 2020
Assessment approved by:	N/A

Catch22 is committed to always: avoiding the potential for unlawful discrimination, harassment and victimisation; advancing equality of opportunity between people who share a protected characteristic and those who do not; and, foster good relations between people who share a protected characteristic and those who do not.

An Equality Impact Assessment (EIA) is a tool for identifying whether or not strategies, projects, services, guidance, practices or policies have an adverse or positive impact on a particular group of people or equality group. Whilst currently only public bodies are legally required to complete EIA's under the Equality Act 2010, Catch22 has adopted the process in line with its commitment to continually improve our equality performance.

Policy owners are required to complete or review the assessment indicating whether the policy has a positive, neutral or negative impact for people who it applies to and who share one or more of the 9 protected characteristics under the Equality Act 2010. Definitions are based on the Equality & Human Rights (EHRC) guidance.

Objectives and intended outcomes
This EIA has been completed in order to ensure that the implications and potential impact, positive and negative, of this policy have been fully considered and addressed, whether or not people share a protected characteristic.

Potential Impacts, positive and negative

Equality Area	Positive	Neutral	Negative	Please give details including any mitigation for negative impacts
Age Does this policy impact on any particular age groups or people of a certain age?	☐	☒	☐	The policy applies equally to all members of staff regardless of age. It's not considered that the policy includes any guidance or rules that may impact either positively or negatively on any member of staff because of their age.
Disability Does this policy impact on people who have a physical or mental impairment which has a substantial and long-term adverse effect on that person's ability to	☐	☒	☐	The policy applies equally to all members of staff regardless of health/disability. It's not considered that the policy includes any guidance or rules that may impact either positively or negatively on any member of staff because of their disability.

carry out normal day to day activities?				
Gender reassignment (transsexual, transgender, trans) Does this policy impact on people who are transitioning from one gender to another (at any stage)	☐	☒	☐	The policy applies equally to all members of staff regardless of their gender at any given time. It's not considered that the policy includes any guidance or rules that may impact either positively or negatively on any member of staff because of gender.
Marriage and civil partnership Does this policy impact on people who are legally married or in a civil partnership?	☐	☒	☐	The policy applies equally to all members of staff regardless of their marriage or civil partnership status. It's not considered that the policy includes any guidance or rules that may impact either positively or negatively on any member of staff because of their marriage or civil partnership status.
Pregnancy and maternity (in work this is linked to maternity leave, non-work this is for 26 weeks after giving birth) Does this policy impact on people who are pregnant or in their maternity period following the birth of their child?	☐	☒	☐	It's not considered that the policy includes any guidance or rules that may impact either positively or negatively on pregnant women or on staff on maternity leave.
Race Does this policy impact on people as defined by their race, colour and nationality (including citizenship) ethnic or national origins	☐	☒	☐	The policy applies equally to all members of staff regardless of their race, origin, colour or nationality. It's not considered that the policy includes any guidance or rules that may impact either positively or negatively in these respects.
Religion and belief Does this policy impact on people who practice a particular religion or none, or who hold particular religious or philosophical belief or none?	☐	☒	☐	It's not considered that the policy includes any guidance or rules that may impact either positively or negatively in these respects.

Sex Does this policy impact on people because they are male or female?	☐	☒	☐	The policy applies equally to all members of staff regardless of their sex. It's not considered that the policy includes any guidance or rules that may impact either positively or negatively on any member of staff because of their sex.
Sexual orientation Does this policy impact on people who are sexually attracted towards their own sex, the opposite sex or to both sexes?	☐	☒	☐	The policy applies equally to all members of staff regardless of their sexual orientation. It's not considered that the policy includes any guidance or rules that may impact either positively or negatively on any member of staff because of their sexual orientation.

More information/notes

Please add any links to key documents or websites to evidence or give further detail on any impacts identified.

N/A