



Code of Competency

Context: Where the performance of an individual employee falls below acceptable standards Signum has a duty to address this. We will seek to explore the underlying reasons sympathetically and offer an opportunity for improvement before considering dismissal.

Relation to Disciplinary Code

The Disciplinary Code addresses behavior whereas the Competency Code addresses performance. They are designed to run separately but potentially concurrently. Where a final written warning has been issued by a Disciplinary Panel this will be addressed under these procedures by means of an Improvement Plan since this is deemed to be such a serious failure of standards that it needs re-education and training. Therefore, where such a warning has been issued any subsequent incidents will be addressed under this policy with the Competency Panel serving as a joint Competency and Disciplinary Panel with the power to consider both behavior and performance as grounds for dismissal.

Probationary Period

All employees of the University will be subject to a probationary period during which their performance will be closely monitored by their supervisor/manager to ensure they meet acceptable standards. At the end of this period their manager will submit a written report to the Employment Team confirming that they have performed adequately and should be added to the permanent staff of the university.

Annual Performance and Development Interview

Each member of staff will have an Annual Performance & Development Interview with their manager at which they will consider their overall functioning and ways in which to improve this. The purpose of this interview is to act as a focus for staff development and help raise overall standards within the University. It is not intended to address significant deficiencies, except where these are a potential barrier to promotion and progression along a career path that the employee has previously identified, and it is not acceptable for breaches in standards to be left until this interview for resolution. Failures in performance should instead be tackled through the procedures set out in this code when they occur.

Implementation

This Code shall be implemented where a supervisor or manager has concerns about an employee's performance. This shall include but not be limited to:

1. Gaps in essential knowledge for the role

2. Making basic errors in their work
3. A lack of care or attention in all aspects, or particular aspects, of their work
4. Failure to comply with policies or guidelines which are essential to the job
5. Treating students or others discourteously or with less care and attention than would normally be expected from someone in their position

Where issues arise, they should be addressed as soon as possible with the employee, including during the probationary period. Managers should not wait until completion of the probationary period or for the Annual Performance and Development Interview to tackle problems. Most employees will experience minor lapses in performance during the period of their employment and these should be addressed by supervisors as part of the normal oversight process. Only where there is evidence of a pattern of failure and/or unacceptable standards and performance should these Procedures be formally invoked.

Review Meeting

The manager/supervisor will convene a private meeting with the member of staff. At this meeting they will provide specific examples of unacceptable work and practices and inform the staff member why this will not be allowed to continue. This meeting will be formally reported and a copy of the notes placed in the employee's file.

Where this meeting occurs during the Probationary period the probationary employee will be informed that they have a week to address the identified deficiencies.

If following this meeting there is the required improvement in standards then no further action will be taken, otherwise the line manager for the member of staff will notify the Employment Team that standards are still not being met.

Improvement Plan Meeting

A further meeting will be convened between the manager, the employee, the Division Lead and a representative of the Employment Team. The member may be accompanied by a trade union representative or staff member of their choice.

The purpose of the meeting will be to devise an Improvement Plan which actively addresses the performance issues that the supervisor has identified as the most serious. Accordingly where there are multiple performance deficiencies the plan should focus on no more than five. This does not mean that fulfillment of the Plan constitutes full matching of expected standards. Even after it has been achieved, a further Plan meeting may be required to address remaining issues and bring the employee into full compliance with standards.

Whilst the possible consequences of a failure to reach the standards required by the Plan should be made clear to the employee, the overall tone of the meeting should be non-threatening and sympathetic. The Division Lead\Employment Team representative are encouraged to explore assistance that might be provided to the employee to help them attain the standards, this could include additional training or mentoring for example. For a plan devised in response to a final written warning under the Disciplinary Code the meeting needs to explore the causes of unacceptable behavior and options that might help to combat it, such as training and counseling. The meeting is intended to provide a supportive environment that will give the the staff member the best possible chance of understanding what is required of them and meeting these standards, therefore all parties are encouraged to approach it in a positive, honest, open-minded way and to take full advantage of the opportunities it offers.

The points of the plan should confirm to the S.M.A.R.T. System in that they should be easily measurable and achievable within a specific period, which for a probationary employee shall be no greater than three weeks. It needs to be understand that it is not enough for the employee just to reach required standards, this level of performance must be sustained.

Once agreed the plan will be typed up and a copy placed on the employee's permanent record. Two additional copies will also be sent to them one of which they will be required to sign and return to the Employment Team to signify their understanding of what is required.

If at the expiry of the agreed time period standards have not been reached, but there has been significant progress made, to the extent that the Division Lead feels confident that standards have a high chance of being reached given a further short period of time, then the Division Lead has the authority to extend the period of assessment. This may also involve reconvening the Improvement Plan meeting and modifying the Plan or creating a new one to address further issues. Extension of assessment period is not normally an option for probationary staff members but exceptionally may be made available with the agreement of the Provost.

Competency Hearing

Where standards have not been met within the stated time period a formal Competency Panel will be convened, constituted according to Appendix A. The meeting will be held by Skype, GoToMeeting or other appropriate communications software and an audio recording will be made of the proceedings, which will be made available to the staff member on request

A member of the Employment Team shall attend the panel hearing and advise on procedures but shall take no part in the decision-making process. The Provost may

serve as the representative of the Employment Team or as a Panel member but may not serve in both capacities on the same panel.

The case for the University against the employee will be presented by their manager. The employee or their representative will have opportunity to respond, present counter arguments and present and question witnesses

The staff member may be accompanied by a trade union representative or staff member of their choice..

At least a week's notice shall be given of a Competency Panel hearing to all participants. Documentation to be used at a Competency hearing must be received by Employment Team at least four working days in advance.

The hearing shall address the following questions:

- Has the staff member met, and sustained required standards?
- Is there any evidence that further time might enable these standards to be met?
- If there are a specific subset of duties/responsibilities with which there are issues, is there any feasible way to isolate those – such as assigning them to another member of staff?
- Is there any evidence that the staff member might perform adequately in an alternative post?
- Where the answer to all, or a majority of the above questions, is “no” then is the only viable option termination?

At least five, or three for a probationary staff member, specific examples of unacceptability of work performance must be included in the evidence presented to the hearing. Each example shall include

- A description of the task undertaken and what acceptable work performance would have been and how this would have been measured
- Specific evidence of how the employee's work fell short of this standard
- Independent verification of this judgment
- Any steps taken to try to address these issues produce a performance improvement and any resultant change in standards

In addition the Panel shall see written evidence relating to the Improvement Plan and the assessment of performance as a result of its implementation.

The verification should normally come from a staff member from a different team or Division who is professionally competent to make such an assessment. Where the competency failure includes the academic performance of a Faculty member then

this should have been assessed on at least one occasion by a person previously or currently employed in a similar role in an academic institution and with professional credibility to assess the content and quality of the teaching.

Panel Deliberations and Verdict

The Panel shall consider the evidence in private. The Employment Team representative may answer questions about procedure, including legal requirements and consequences, and decisions reached in similar cases but may play no other part in the deliberations. The purpose of the Panel is to reach a consensus on the evidence and the penalty that should be applied, where appropriate. Where there is disagreement between Panel members they should try to reach consensus through further discussion. However a majority decision is acceptable where unanimity is not possible.

Discussions should address the points made during the hearing, by both the employee and the University representative, considering the information presented in its entirety as a representation of the employee's work and standards. It should also discuss in detail at least one example of the work that was presented which the Panel deems to be particularly diagnostic and representative of overall standards.

The Panel shall have the following powers and verdicts available to it:

1. To find that the employee's work is not of an acceptable standard and is not likely to reach this standard in the short-term, in which case dismissal shall be made
2. To find that the employee's work is not of an acceptable standard but that the deficiencies are in specific areas which can be accommodated by the Division by means of adjustments in job descriptions and functions. This may potentially result in an involuntary demotion when the employee's job description is resubmitted for grade evaluation.
3. To find that the employee's work is not yet of an acceptable standard but there is good reason to think that it will reach this standard in the short-term, in which case a new Improvement Plan should be devised
4. To find that the employee's work is indeed of an acceptable standard in which case no further action will be taken and a copy of this verdict will be placed on the employee's permanent file.

Whilst the Panel will always give consideration to the possibility of making job adjustments to preserve employment, it has to be recognized that in many, possibly most, cases this simply will not be possible and termination of employment will be the only option. Reasons for this may include:

- There is a need for these specific functions to be carried out which is why the job was created in the first place and it would not be cost-effective to transfer these responsibilities to other posts or create another new post to do them
- These functions are core to the job and without them the post is not viable
- Transfer of functions would represent an unacceptable burden on co-workers and an unwanted change in departmental working practices
- Other managers are unwilling to take on an already failing person onto their team with the potential disruption this could cause

The Chair of the Panel will ensure that a signed copy of the Panel verdict and summary of its deliberations is provided to the Employment Team within seven working days of the date the Hearing.

Standard of Proof

This Competency Code represents a non-judicial procedure and judicial standards of proof are not appropriate or required. It is not reasonable therefore to expect to resolve all doubts especially when confronted with conflicting statements. Those making a final determination should apply the following test

Could a reasonable person shown the evidence of this hearing have broad confidence that the employee was not performing their role competently and that this was not likely to change in the short-term?

If the answer to this question is yes then the case against the employee should be judged to have been upheld and a decision made to terminate employment. For a joint Disciplinary/Competency Hearing called following the issuing of a final written warning the standard of proof shall be identical to a Disciplinary Hearing and it will only be necessary to demonstrate that a subsequent disciplinary offense has been committed though documentation of general failures in standards are also admissible and where such evidence exists it should be provided.

Appeal

Where the decision is for dismissal then the staff member has two weeks to submit an appeal in writing to the Employment Team against the verdict of the Panel. The appeal shall be based on one or more of the following grounds

1. The Panel hearing did not comply with the Competency Procedures or natural justice
2. There were mitigating circumstances which the Panel did not address
3. There is evidence, including witness statements, that was not available at the time of the Panel meeting which would legitimately raise questions about its verdict

Appeal Hearing

An Appeal Panel shall be convened within a week of receipt of an appeal. The Panel shall be constituted of three members of the Board, one of whom may be the President, and assisted by a representative of the Employment Team, who may be the Provost. No person involved with the case at an earlier stage may participate in the Appeal Hearing, save that the Provost shall not be prevented from serving in a professional capacity as the representative of the Employment Team by virtue of their having been a member of the original Competency Panel.

The purpose of the Appeal Hearing shall not be to rehear the case but rather to address the specifics of the grounds of appeal. The Chair of the original Competency Panel shall be given opportunity to respond to the appeal and demonstrate to the Hearing why they do not consider the grounds applicable.

The staff member may be supported at the Hearing by a trade union representative, a friend or other nominated person acting in a non-legal capacity.

The proceedings of the Panel shall be as follows:

1. The Chair of the Appeal Hearing shall read aloud the summary of the original decision and the verdict and invite the staff member to present their response
2. The staff member, or their representative, will state the grounds for the appeal and present their case
3. The Chair of the original Panel will be invited to make a response
4. The staff member, or their representative, will be given opportunity to address any points made by the Panel Chair, to summarize their case and make any other pertinent statements
5. The Chair of the Appeal Hearing will formally close the meeting and the members of the Appeal Panel will retire to consider their decision.

Appeal Panel Deliberations and Verdict

The Panel shall consider the evidence in private. The Employment Team representative may answer questions about procedure, including legal requirements and consequences, and decisions reached in similar cases but may play no other part in the deliberations. The purpose of the Panel is to reach a majority decision on the appeal and will consider each of the grounds for appeal separately.

An Appeal Panel shall have the following powers in relation to an appeal against a dismissal

1. To reject the appeal and uphold the original termination with immediate effect
2. To uphold the appeal and substitute a lesser penalty of its choice but consistent with the normal progressive disciplinary procedures. This shall only apply where the original hearing was a joint Competency/Disciplinary Panel.
3. To uphold the appeal, issue a formal statement of competency to be included in the employee's permanent file and set aside the original verdict

Variations in Procedures

Where this policy refers to a specific post, in the event that this is vacant or the post-holder is unavailable for good reason such as sickness or vacation, then the person deputizing for them, or otherwise temporarily covering their responsibilities will be an acceptable substitute and this shall not invalidate any aspect of the Competency proceedings. An appeal may not be based solely on the fact such as substitution has been made.

If a member of the non-teaching staff has not successfully completed their probationary period, their Division Lead may function as the Panel for hearing evidence and making a decision to terminate. In this situation any appeal against dismissal shall be heard instead by the President rather than an Appeals Panel. For a Work-Study student volunteer, the same variations will apply and it will consider termination of the volunteer agreement rather than dismissal as a penalty.

Where there are questions of the President's competency the role of line manager in documenting the case will be undertaken jointly by the Provost and Secretary of the Board upon instruction by the Chair of the Board who will appoint an Adviser to the Panel who will be serving, or have served, in a chief executive position at another education institution. The Adviser will function as a full member of the Panel in being able to speak and question witnesses but will have no vote. The case will be presented to the Competency Panel by the Secretary to the Board and the Provost will represent the Employment Team at the hearing and advise on procedural matters.

Any decision to dismiss the President or a Strategy Team member will require ratification at a special meeting of the full Board.