

Capability Policy

Report of the Chief Fire Officer

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1 Purpose of Report

This report seeks guidance from Members on the usage of the Capability Policy.

2 Recommendations

The Human Resources Committee is asked to recommend to the Fire Authority:

- a) The full adoption of the Capability Policy and to deal with any disputes raised by Unions, if and when they arise; or
- b) The partial adoption of the Capability Policy, as and when appropriate; or
- c) The adoption of the Capability Policy as Managers' guidance to dealing with poor performance; or
- d) That the Capability Policy is removed from Brigade Orders and not used.

3 Background

In mid 2008 officers began work on drafting a new Capability Policy, having recognised the need for this addition to our suite of policies as a result of a grievance dealt with during that year. In addition at the Human Resources Committee on 4 December 2008 an independent consultant recommended the introduction of a capability policy following a further grievance situation.

As a result of this recommendation a draft capability policy was completed. It was developed in accordance with best practice guidance and suggested policy from the Chartered Institute of Personnel and Development (CIPD).

The Committee considered and approved the draft policy on 26 February 2009. They agreed that it be issued for consultation with the executive management board and representative bodies and that the final version be brought back to the Committee on 28 May 2009.

The Capability Policy was further developed and the completed version was presented to the Committee for agreement in May 2009. This policy was distributed to Policy Group for comments in April 2009, and was also distributed for union consultation.

4 Representative Bodies' View

Members should be aware that there is resistance to accept this as policy from three out of four of the trades unions, specifically the Fire Brigades Union (FBU), Fire Officers Association (FOA) and UNISON. Whilst, therefore, the Capability Policy has now been issued as a Brigade Order, should the Service need to put the Policy into practice we may encounter dispute from the representative bodies.

5 Recommendations

Members are asked to consider the recommendations as laid out in section 2 of the report:

a) Recommend the full adoption of the Capability Policy and deal with any disputes raised by Unions as and when they arise

This recommendation would follow the guidance from the Independent Consultant. However it could have a negative impact on trades union relations.

b) Recommend the partial adoption of the Capability Policy, as and when appropriate

This recommendation could allow the application of this policy to certain members of staff, i.e. those, who are not members of FBU, FOA or UNISON. However to apply a policy to only certain members of staff would not be considered good practice or consistent behaviour and could put the organisation at risk from discrimination claims.

c) Recommend the adoption of the Capability Policy as Managers' guidance to dealing with poor performance.

This recommendation would allow Managers to use the policy as a guidance tool for dealing with capability, whilst not defining it as a Brigade Order with the status that confers.

d) Recommend the Capability Policy is removed from Brigade Orders and not used.

This would meet representative bodies' views. However this would not be best practice and would not give Managers adequate support to manage cases of capability.

Therefore this paper is brought before Members to ask for their consideration as to how the Service should proceed with the usage of the Policy.

6 Financial Implications

There are no direct financial implications arising from this report.

7 Legal Comment

The Employment Rights Act 1996 provides that capability is a potentially fair ground for dismissal. The Act states that acceptable reasons for dismissal include "reasons related to the capability or qualifications of the employee for performing work of the kind which (s)he was employed to do".

In order that a dismissal is deemed to be 'fair and reasonable' by an Employment Tribunal an employer must prove that the procedure leading to the dismissal was reasonable, giving consideration to all the circumstances, and that the reason for the dismissal was fair. The minimum expectation is that the ACAS Code of Practice must be followed.

The proposed Capability Policy allows the Service to deal with issues of capability in an efficient and equitable manner in compliance with the legislation and the ACAS Code of Practice.

8 Equality Impact Assessment

This report is to seek guidance from Members on the implementation of a policy and there is, therefore, no requirement for an Equality Impact Assessment.

9 Appendix

Brigade Order Human Resources 5 part 8 Capability Policy

10 Background Papers

Shropshire and Wrekin Fire Authority:

Human Resources Committee 28 May 2009

Report 6 - Proposed introduction of a Capability Policy, and non-exempt minutes

Implications of all of the following have been considered and, where they are significant (i.e. marked with an asterisk), the implications are detailed within the report itself.

Balanced Score Card		Integrated Risk Management Planning	
Business Continuity Planning		Legal	*
Capacity		Member Involvement	
Civil Contingencies Act		National Framework	
Comprehensive Performance Assessment		Operational Assurance	
Efficiency Savings		Retained	
Environmental		Risk and Insurance	
Financial		Staff	*
Fire Control/Fire Link		Strategic Planning	
Information Communications and Technology		West Midlands Regional Management Board	
Freedom of Information / Data Protection / Environmental Information		Equality Impact Assessment	*



Shropshire

Fire and Rescue Service

Brigade Order

Human Resources	
Brigade Order	5
Part	8
Section	
Title	Capability Policy

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Roles, Responsibilities and Review

The **Assistant Chief Officer** is responsible for ensuring this Order is implemented across the Brigade.

The **HR Manager** will be responsible for the day to day operation of the Order. The **HR Officer** will review this Order biennially in **August** and as and when organisational changes take place.

Brigade Order Human Resources 5

Part 8- Capability Policy

Purpose

This Order provides a guidance procedure for Managers and employees on how to effectively manage standards of performance within the workplace.

Strategic Aims and Objectives

This Order supports:

Strategic Aim 3 – Secure the highest level of safety and welfare/wellbeing for all staff and Authority Members

- Objective 9 – Maintain and improve the health, safety and wellbeing/welfare of all Members and employees
- Objective 10 – Ensure that all Members and employees are competent and able to perform their role by providing effective leadership and development

Strategic Aim 5 – Provide a service committed to the highest levels of equality and diversity

- Objective 19 – Provide a just and dignified place of work for all employees, Members and visitors
- Objective 20 – Recruit, promote and retain a workforce representative of the community we serve

Introduction

Shropshire Fire and Rescue Service employees are our most valuable resource in delivering a high quality community protection and emergency response service to the communities we serve. Competent, motivated and effectively developed employees able to perform their roles to the best of their abilities are critical to our success.

Shropshire Fire and Rescue Service will at all times endeavour to ensure that employees achieve and maintain a high standard of performance in their work. To this end the Service will establish standards and monitor performance, and provide employees with appropriate training and support to meet those standards.

There will be times when employees do not perform at the levels required by the organisation and we need to be able to support employees who are identified as not meeting the standards required for competent performance in their roles. This procedure provides a fair, open, and reasonable way to respond where the capability of an employee to perform his/her job gives rise for concerns.

In dealing with cases of poor performance, the organisation distinguishes between those where the reason is within the employee's control. For the purpose of this procedure poor performance/capability refers to an employee failing to produce satisfactory work standards and/or meet performance targets and objectives where they may lack the necessary skill, aptitude or qualification to do the job for which they are employed.

Where poor performance arises from the employee's carelessness, negligence or apathy rather than lack of ability to carry out their role and responsibilities, this will normally be dealt with under the disciplinary procedure (Brigade Order Human Resources 10 Part 1 – Disciplinary Policy and Procedures)

In cases of sickness absence, the procedure below should be read in conjunction with Brigade Order Human Resources 7 Part 1 - Control and Monitoring of Sickness Absence.

For cases related to alcohol and drugs dependency, see Brigade Order Health and Safety 10 Part 1 - Alcohol and Drugs Policy and Brigade Order Health and Safety 10 Part 6 – Fitness of Operational Personnel.

Principles

In managing employee's performance at work and in tackling issues of unsatisfactory performance the following principles will be applied:

- The standards of performance required of employees in their role will be clearly defined and communicated
- Managers are responsible for the fair and objective assessment of employee's performance
- Managers should be receptive to employee's ideas for improved work methods
- Managers should identify agreed learning and development needs with employees' who maintain satisfactory performance and they should ensure that these needs are met
- Managers are responsible for regularly discussing performance with their employees
- Issues of poor performance will be tackled promptly with clear outcomes at each stage of the process. The focus of the Manager's and employees efforts must be to work together to improve work performance
- Managers and employees should focus on tackling issues in relation to performance as soon as they arise. Often by early, appropriate and sensitive intervention this will ensure the employee is supported to achieve and sustain the performance standards required in his/her role
- Employees will be supported to achieve and maintain the required performance standards in their role. However where an employee consistently fails to reach and/or maintain a satisfactory standard of performance they may be dismissed from his/her employment with the Service. This will only happen where the employee has been given an opportunity to improve with the appropriate support
- Dependant upon the seriousness of the poor performance it may be appropriate to deal with the matter under the appropriate stage of the formal procedure. Such an approach will only be taken following discussion with Human Resources
- If at any stage in this procedure it becomes apparent that the matter is actually one of discipline rather than capability, it is appropriate to switch to the application of the disciplinary procedure

What is poor performance?

When dealing with poor performance there is a need to be absolutely clear about what it is. Examples of poor performance may include (the list is not exhaustive):

- Poor quality work
- Low output
- Consistent/repeated failure to meet realistic deadlines or targets
- Consistent inability to recognise common problems and/or find appropriate solutions
- Continuing inability to change e.g. Working practices and targets despite appropriate training or coaching

- Significant or frequent mistakes despite receiving coaching and support
- A demonstrable lack of skill, knowledge or ability to learn despite appropriate coaching, training and support

In dealing with issues of poor performance within the parameters of this procedure, Managers need to establish that the incidences of poor performance are the result of the employee's lack of capability i.e. a lack of skills or aptitude, competence or qualifications or any other quality needed to do the job they are employed to do to the required standard of performance.

Sufficient investigation will be required to establish if there is an issue regarding poor performance and that the likely reason for the poor performance relates to the employee's lack of capability.

Is there a performance issue?

A Manager will need to decide if a problem does exist in relation to an employee's performance. The following questions will assist in making that initial judgement:

- What are the indications that the employee is not measuring up to the requirements of the job?
- Have there been complaints about the employee's work?
- Are there factual grounds to indicate inadequate performance, such as poor results?
- Does the Manager's own observations of the employee at work indicate dissatisfaction with their performance?
- Has the employee asked for help to overcome a problem?
- Has an appropriate period of time elapsed to decide whether a problem exists in answering the above questions?

The aim should be to encourage the employee to improve their performance to an acceptable level. It should be possible to assess by how far the employee is performing below standard and how to ascertain when the employee improves to the standard required. As part of the process of encouraging an employee to improve performance, the provision of training necessary to enable the employee to carry out the required duties may be important.

Managers will need to decide what further training and/or other support might be appropriate. The employee's response to an offer of further training in order to improve performance should be monitored and recorded.

Where it appears that there is an issue of poor performance; fairness will not be achieved unless the employee is given:

- The opportunity to explain why he or she is not measuring up to the requirements of the job
- The opportunities and assistance to improve
- Has been advised about the risks to their continued employment if satisfactory improvement has not been achieved and sustained

Where an employee's standard of work may be attributable to the conditions in which they are required to work, management should assess the working conditions and the possible relevance of these to the employee's unsatisfactory performance.

It may be that the main cause of the poor performance or lack of capability is a change in the nature of the job. In such an event consideration should be given as to how the situation might properly be treated rather than as a poor performance/capability issue in the first instance.

Advice and guidance on identifying and managing issues of poor performance and on the application of all the stages of this procedure are available from HR.

Employees subject to a probationary period.

Newly appointed employees who are subject to a contractual probationary period, will have their performance monitored during their period of probation.

The Line Manager will regularly monitor the employee's performance during this period. **A final review must take place 4 weeks before the expiry of the probationary period.** Following the final probationary review, the Manager will notify the HR team of the outcome of the review. In most cases the outcome will be confirmation of continued employment. The HR team will send written confirmation of successful completion of the probationary period to the employee.

Where concerns arise during the probationary period, the Line Manager will follow the approach outlined in the informal stage of this procedure and a review meeting should be held and written records kept. Timescales for a review meeting will normally be a maximum of 6 weeks from the initial discussion about poor performance.

Following the review meeting where the employee has achieved a satisfactory level of performance no further action will be necessary. HR will send written confirmation of successful completion of the probationary period to the employee.

Where the employee has failed to meet the required standards of performance, the Line Manager may decide to choose one of the following courses of action:

- Provide additional time for improvement
- Provide additional appropriate training
- Implement any other actions to support the employee to improve their performance

If performance does not improve the Line Manager may choose to extend the probationary period, however, the employee must be made aware that the failure to meet the required standards of performance and/or to sustain improved performance may result in their employment being terminated.

The Line Manager must comply with the requirements in relation to recording and notifying employees as indicated in the informal stage of the procedure. Written notification to the employee must identify any extension to the probationary period. It must also indicate that their employment may be terminated if they fail to achieve the required standard of performance.

Where the employee's performance has not improved sufficiently and they fail to sustain the required improvement the Line Manager, following discussions with HR, will conduct

a formal interview meeting in line with the principles of the third formal stage of this procedure.

The outcome of the meeting will be formally recorded in a letter to the employee. Where the decision is to dismiss the employee the termination letter will inform them of notice arrangements.

Right to be accompanied

At all formal stages of this procedure the employee has the right to be accompanied by a trade union representative or a work colleague. Employees in the probationary period may request to be accompanied by a trade union representative or work colleague at a meeting where their continued employment is to be discussed.

Employees have the right to postpone a formal meeting for up to 7 days if their representative or work colleague is unavailable to accompany them at the meeting, however where this might cause the process undue delay the employee will be requested to seek someone else to accompany them.

Managing poor performance procedure

Informal Meeting

When it first becomes clear that there are concerns about an employee's performance, the line manager should meet with the employee as part of the normal supervisory process to try and establish the reason or reasons. The purpose of the meeting is to:

- Explain the problem – why the work performance is unsatisfactory, and what standard is expected from the employee
- Be constructive – pointing out shortcomings but explaining how these can be put right and encourage improvement
- Give the employee the chance to explain or reply and to put forward his/her views
- Agree appropriate remedial action such as additional on or off the job training, counselling and support
- Agree a reasonable timescale for improvement. As a generally guide this should be a minimum of 8 weeks
- Agree performance monitoring and review arrangements including a date for a review meeting
- Ensure the employee is aware of the possible consequences of continued poor performance, that is, the matter being dealt with under the next step in the procedures i.e. Stage 1 first formal interview

Any explanation given will be investigated, after which the following outcomes (although not exhaustive) and actions are possible:

Managers decision on reason for poor performance (the issue)	Actions
a) The established standards are not reasonably attainable	<i>The standards will be reviewed.</i>
b) The employee's problems emanate from a change in the organisation's standards	<i>The new standards will be explained to the employee, and help and retraining will be offered, as appropriate.</i>
c) The employee's problems are related to his or her personal life	<i>The necessary counselling and support will be provided where possible.</i>
d) The employee's poor performance is related to a lack of training or supervision	<i>Additional support in the form of training or coaching will be provided.</i>
e) The employee is suffering from a medical condition which affects his or her performance, but the condition has not yet resulted in a poor attendance record	<i>Medical advice will be sought before determining a plan of action.</i>
f) The employee's performance problems are related to his or her state of health and have resulted in frequent and persistent short-term sickness absences or a longer period or periods of absence	<i>Refer to the ill-health section of this policy.</i>
g) The employee's poor performance results from and may even constitute misconduct	<i>The disciplinary procedure will be invoked.</i>
h) The Employee's failure to maintain appropriate physical fitness level results in poor performance	<i>Medical advice sought before determining a course of action</i>

Where the employee has a disability, Managers will need to consider any reasonable adjustments that may be required in supporting the employee to improve their performance. Advice must be sought from HR and Occupational Health on how to best meet the needs of the employee.

The outcome of the meeting will be recorded in writing. This should detail:

- The standards of performance expected
- The areas of improvement required
- Any areas of work-related training to be provided
- The increased supervision arrangements if appropriate
- Agreed timescales for review

The note must indicate that every reasonable opportunity will be given to the individual to improve however; failure to meet the required standards within the timescales may result in the issues being dealt with under the appropriate formal stage of the procedure.

Following the meeting, a copy of the above must be given to the employee and a copy retained on their personal file in HR.

After the agreed timescale the review meeting will be held to ascertain what improvements have been made and to discuss the next course of action. The outcomes may include:

- Confirmation that performance has improved and the employee is performing competently
- There is sufficient improvement but still some concerns which the Line Manager is satisfied that they can be resolved following further time and/or additional training and/or close monitoring/supervision
- There has been no, or limited, improvement or there has been a failure to sustain improvement in performance and the issues should be referred to the first stage of the formal procedure

The outcome of the review meeting will be formally recorded in a letter to the employee within 7 days of the meeting. A copy of this will be placed on the employee's personal file.

Where there is a further period of time set for improvement, the Line Manager must indicate:

- Where the performance is still unsatisfactory
- The measures that will be made available to assist the employee to achieve the required level of improvement
- A further review date

Formal Procedure – Stage 1 First Formal Interview

Where a decision has been made to move to the first stage of the formal procedure the employee will be notified in writing that they are required to attend a formal interview to discuss the concerns regarding their performance at work.

The letter will specify the following details and give a minimum of 7 days notice:

- Time and Date of Venue
- Details of who will be present
- Concise details of the perceived areas of poor performance/lack of capability
- The right to be accompanied

At the meeting with the employee and their representative the Line Manager and HR Officer will explain the need to move to the formal stage and that the purpose of this interview will be to:

- Consider the evidence regarding the employee's performance

- Ensure that performance expectations and standards have been set and that they are reasonable
- Ensure that the employee understands where their performance falls short of the standards
- Review the action taken to support their improved performance
- Consider if any remedial action already taken should be continued or changed
- Identify and agree any additional training or other action or improve performance
- Set reasonable timescales for improvement and set a review meeting
- Ensure the employee is aware of the consequences of continued poor performance

Regular performance monitoring arrangements are still necessary in order to provide feedback to the employee on progress to date and to address any concerns. There should be no surprises at the formal review meeting relating to the employee's progress.

If the employee's performance has not improved to the required standard and/or there has been no sustained improvement and it is appropriate; then the Line Manager may consider issuing a written warning which will remain on the employee's record for 6 months.

The employee will be notified of the decision which will be confirmed in writing within 7 days of the conclusion of the first formal interview meeting. This letter will remind the employee that failure to improve and sustain improvements may result in the matter being dealt with at the next formal stage of the procedure and that their employment may ultimately be at risk if they fail to achieve the required performance standards. The Right of Appeal against this decision must also be confirmed.

After the agreed timescale a review meeting will be held and following the review meeting the Line Manager will advise the employee what improvements in performance have been made and discuss with the employee the next course of action. If the Line Manager is satisfied that the employee's performance now meets the required standards a letter will be sent to the employee to confirm this decision. Where the employee has failed to meet and sustain a satisfactory standard of performance the letter will indicate that the matter will be considered at Stage 2 of the formal procedure.

Stage 2 – Second Formal Interview

The employee will be notified in writing that they are required to attend a second formal interview to discuss the issues and concerns regarding their performance at work. The letter will indicate that a failure to improve his/her performance to the required standard may result in a final written warning and remind him/her that failure to improve or sustain improved performance may ultimately result in their dismissal from the Service.

The employee will be given a minimum of 10 days notice of the interview.

The Line Manager and HR Manager will meet with the employee and their representative and the purpose of the interview will be similar to that of the first formal stage. The Line Manager needs to consider all of the matters as outlined in the first formal stage and also:

- They will explain the reasons for moving to the second formal interview

- They will give consideration to the issue of a final written warning
- Timescales for any review will be a matter for the Line Manager's judgement taking account of all the circumstances of the case

The outcome of this meeting may include:

- The employee has reached the standards
- The issue of a final written warning which will remain live on their personal file for 18 months

The outcome will be confirmed in a letter to the employee and their right of appeal (if appropriate) within 7 days of the meeting.

If the employee has not reached the standard required then a review meeting will be set. The employee should be informed of the consequences of failure to improve and to sustain performance improvement within that review period, that is, the matter will be dealt with at the next stage of the procedure and may put their continued employment at risk.

Stage 3 - Third Formal Interview

The employee will be notified in writing that they are required to attend a third formal interview to discuss issues/concerns about their performance at work. The employee will be given 21 days notice of the interview and the right to be accompanied.

The Area Manager or higher or the equivalent non uniformed level of Management (Hearing Manager) and the HR Manager will attend the hearing and subsequent review meeting where applicable. The purpose of the interview will be to explain the reasons to the employee for considering the matter at the third formal stage of the procedure.

This meeting will also consider the evidence regarding the performance of the employee and explore with the employee why their performance is regarded as unsatisfactory. Performance will be reviewed and expectations and standards that have been set will also be reviewed. The employee will be given the chance to discuss these matters and a review period (if appropriate) will be set. This meeting will also determine the future employment position of the employee. The Hearing Manager will receive information about the employee's performance and perceived lack of capability, the employee and their representative may explain their position and question any statements or information provided.

The Hearing Manager will consider the range of options available, these include:

- The employee has reached the required standards
- Further time should be allowed to enable the employee to reach the required standard if sufficient improvement has been achieved and there are reasonable grounds to believe that the employee will reach a satisfactory standard within a short timescale (up to 6 weeks)
- Extension of their final written warning with further time for improvement
- Consideration of other action should be considered i.e. alternative vacancies that the employee would be competent to fill
- Dismissal with notice or pay in lieu of notice

The employee will be notified in writing of the outcome including their right of appeal within 14 working days of the conclusion of the interview.

If following the review period the employee reaches a satisfactory level of performance they will receive written confirmation including details that the final written warning will remain on their employee personal file and include any extensions to the initial period set if applicable. Confirmation will include that any further incidences of poor performance within the period of the final written warning may result in termination of their employment. The individual will also be made aware that their performance will remain subject to regular monitoring during the period of the written warning.

Where the employee has failed to reach the required level of performance in this role and are subject to dismissal, they will receive confirmation of this decision in writing including details of notice arrangements and their right of appeal.

III Health

For cases where an employee's performance may be due to a medical condition, the employee's Line manager will advise him or her to seek proper medical attention. A medical report from the employee's GP will be requested through occupational health, if appropriate, and the employee may be required to attend an examination by the occupational health physician to seek a further medical opinion.

A refusal to consent to, or pass on the GP's report, or to attend a medical examination, may lead to disciplinary action against the employee, up to and including dismissal. Once it has been established that the employee is receiving appropriate medical treatment, the employee's performance will be reviewed over a reasonable period of time.

If the main cause of the poor performance is a medical one, SFRS will consider whether the employee is disabled within the meaning of the Disability Discrimination Act 1995, and will take appropriate action.

The following procedure will be operated where an employee's Line manager establishes that:

- the employee's attendance record is significantly worse than those of comparable employees or creates a particular operational difficulty (refer to *short-term absences*)
- the employee's absence due to sickness has gone on for a considerable length of time (refer to *long-term absences*)

Short term absences

Short term absence will be managed in accordance with Brigade Order Human Resources 7 Part 1 – Control and monitoring of sickness absence.

In all short-term absence cases where the formal interview process is applied the employee will be advised to seek proper medical attention and if appropriate, a medical

report from the employee's GP will be requested via Occupational Health. The employee may also be required to attend an examination by the occupational health physician to seek a further medical opinion.

A refusal to consent to or pass on the GP's report, or to attend a medical examination, may affect entitlement to occupational sick pay and may also lead to disciplinary action against the employee, up to and including dismissal.

In some circumstances the Service may require the employee to provide private medical certificates for all absences from work due to sickness, regardless of their duration. The organisation will reimburse the employee fully for the cost of obtaining these certificates.

At any stage in this procedure, following investigation, should the employee's Line manager feel that the employee's absences are not due to an underlying medical condition but are casual in nature; the disciplinary procedure will be invoked.

Long-term absences

Long term absence will be managed in accordance with Brigade Order Human Resources 7 Part 1 – Control and monitoring of sickness absence.

In all long-term absence cases where the formal interview process is applied the employee will be advised to seek proper medical attention and if appropriate, a medical report from the employee's GP will be requested via occupational health. The employee may also be required to attend an examination by the Occupational Health physician to seek a further medical opinion.

A refusal to consent to or pass on the GP's report, or to attend a medical examination, may affect entitlement to occupational sick pay and may also lead to disciplinary action against the employee, up to and including dismissal.

Right of Appeal

An individual has the right to appeal against any formal action taken against them in line with this policy and must do so in writing to the HR Manager, stating the reasons for the appeal, within 7 days of the receipt of the sanction/dismissal letter. The appeal will be heard in accordance with the organisation's disciplinary appeals procedure.

Points to Note

Employees will be invited to all formal meetings by letter. The letter will set out the reason for the meeting and the arrangements for attendance.

Outcomes of formal meetings will be confirmed to the employee in writing.

The Service reserves the right to seek assistance from external facilitators (arbitrators, conciliators, mediators) at any stage in the capability procedure, in the interests of seeking a satisfactory outcome for all concerned.

For employees during their first year of employment, the Service reserves the right to speed up the decision making process and therefore may choose to follow a truncated version of the above procedure.

The Service will throughout take all the individual circumstances of every case into account, particularly in relation to the timing of decisions (including a decision to dismiss) although other factors that are time-dependent (e.g. the exhausting of the statutory sick pay entitlement may or may not be regarded as influential).

