TITLE: DEALING WITH INCAPABILITY
and INCOMPETENCE

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DEALING WITH INCAPABILITY/INCOMPETENCE

1. Introduction

The Patient & Client Council is committed to ensuring that staff receive appropriate instruction on the duties and performance standards of the post. The Patient & Client Council will identify relevant training and development to assist staff to maintain the standards expected.

However, situations will arise where it becomes obvious that performance standards are not being maintained. This document deals with arrangements for managing circumstances where staff become incapable of undertaking their contractual obligations.

2. Scope

The scope of this procedure will deal only with staff who become incapable either through:

1. A medical condition
2. Incompetence

And the procedure is devised to replace, in certain circumstances, the use of the Disciplinary Procedure as it is more appropriate for issues of misconduct. The Disciplinary Procedure can be used for situations that are clearly indicative of an abuse of the Sick Pay Regulations.

3. Medical Condition

Occasionally staff are unable to continue to attend work on a regular basis due to a medical condition which may or may not be amenable to medical treatment. Indeed it may be that a member of staff can only attend on a sporadic basis.

The proper use of the Absence Management Policy will assist in the identification of those employees who may find themselves in a position whereby they are unable to fulfil their contract of employment. Generally, they will be identified by recurrent short-term periods of absence or by a number of longer periods of absence.

4. Administrative Procedure to deal with incapability

Generally speaking it would be better if an individual is identified as having a medical problem prior to commencing employment with the Patient & Client Council. Therefore, the pre-entry examination and the acquisition of information on medical history in the application form is a pre-requisite.
i) Current Employee

When it becomes clear that there is an incapability issue the following procedure will be used and will be used concurrently with the Absence Management Policy, where appropriate.

The individual employee who may be, accompanied by a Trade Union Representative, will be invited to attend a meeting with the relevant Head of Function accompanied by a Human Resources Manager and the matter discussed. This meeting should explore the possible improvement of the absence rate and the advice from the Occupational Health Service provider and the content of any Medical Reports.

The options to be explored will be:-

1) Opportunities for redeployment to a job more amenable to the condition of the employee, perhaps at a lower grade.

2) Opportunities for a reduction in hours for a temporary or prolonged period.

3) Eligibility for premature retirement on the grounds of incapacity.

If none of these options prove fruitful then the individual may be advised that their employment will be terminated in accordance with the necessary notice.

ii) Appeal

There will be a facility whereby the decision of the Senior Manager can be appealed within seven working days of the outcome of the meeting being communicated to the individual employee.

The appeal will be to the Chief Executive (or their nominated deputies) who will review with the relevant Head of Function, the decision of the Managers. It will be possible for the individual employee, accompanied by their Trade Union Representatives, to address in person the appeal body.

iii) Exclusions

The only exclusions from this procedure will be illness related to pregnancy and/or a disability as covered by the Disability Discrimination legislation which will require individual consideration.
5. Administrative Procedures to Deal with Incompetence

The same principles of fair play inherent in Disciplinary Procedures should also be demonstrated in regard to dealing with an individual's capability on the grounds of competence. The Patient & Client Council is committed to identifying what steps it can take in dealing with incompetency of officers in a fair and reasonable manner and will initiate the following procedures:-

- There will be an investigation/appraisal of the employee's performance and identification of the problem
- Employees will be warned of the consequence of failing to improve.
- Employees will be given a reasonable chance to improve which includes additional training/development opportunities, mentoring and/or shadowing.

If it becomes the view of management that an individual officer's competence is not acceptable then a meeting should be held to make the individual aware of this. This procedure should only be used for situations where incompetence is of a prolonged nature and not for situations where occasional mistakes are made. If mistakes are persistent and ongoing then employees should be warned that this procedure may be implemented.

i) Procedure

Following the identification of incompetence a meeting of the immediate manager and a Human Resources Manager should be held with the employee, (accompanied by a Trade Union representative or colleague) where the matters at issue should be discussed and consideration be given as to how the incompetence issues can be resolved including:

- Part-time working (even for a limited duration)
- Working at a lower grade
- Further period of review for improvement
- Termination of the contractual arrangement

The decision of the Senior Manager is appealable to the Chief Executive, who with the relevant Head of Function will review all the circumstances of the case. If the employee wishes he/she will be allowed a personal hearing.
6. Review Arrangements

This procedure will be kept under constant review and changes will be subject of consultation. A full review will be undertaken in 2014.

This policy has been screened for equality implications as required by Section 75 of the NI Act 1998 and has no serious impact on Section 75 groups. Equality Commission guidance states that the purpose of screening is to identify those policies which are likely to have a significant impact on equality of opportunity so that greatest resources can be devoted to these.