Academic staff on probation and the capability procedure

- This guidance is intended to provide support where there is a need to improve performance during an academic probation.

- The aim of the capability procedure is to support staff in improving their performance – it should be referred to as soon as performance issues need to be addressed rather than as a last resort. Not tackling performance issues promptly can allow problems to become embedded, cause stress to the individual, and can be difficult to recover from.

- All academic staff are covered by the University’s Capability Procedure.

- Over the course of a 3 year academic probation, the three stages of the capability procedure should be followed where there is a need to improve performance.
  - First formal written warning
  - Second formal written warning
  - Dismissal

- A performance improvement plan or a similar record (of objectives, what must be achieved and by when, support to be provided and a review schedule) must be put in place as soon as some form of capability management or coaching is needed. Ideally this should be agreed but it can be put in place by the Head of Department without agreement.

- A decision not to grant permanency at the point of a 3 year probation would be taken by Academic Staffing Committee. Before the meeting of ASC, the individual would be invited to a capability hearing with the Executive Dean to allow them to hear the case against them and to put forward their case. The decision not to confirm permanency is taken by ASC. A meeting to confirm dismissal then takes place with the Executive Dean and any additional points raised by ASC can be put to the individual.
Example of three year probation and capability management -

Summary

| 3- 6 months | Agree probationary agreement |
| 6 – 18 months | Regular termly review meetings. PIP agreed if support required. |
| 18 months | Interim report to ASC – informal or first formal warning if capability problem. Update PIP and provide support. |
| 18 - 24 months | Review meetings. Review PIP and support. |
| 24 months | If insufficient progress, capability hearing and first or second formal warning. Update PIP. |
| 24-30 months | Review meetings. Review PIP. |
| 30 months | If insufficient progress, capability hearing and second formal warning |
| 36 months | Prior to ASC, dismissal hearing with the Executive Dean. |

Detail

1.1 New members of probationary academic staff have a probationary agreement drawn up within the first 3-6 months of appointment that outlines their objectives for the next 30 months.

1.2 Regular meetings should be held with the supervisor, at least once a term. At these meetings, any problems with performance and any support needed can be discussed. If improvement is not made along the lines of the plan, an informal verbal warning may be given. A performance improvement plan (PIP) should be agreed at this point.
18 month review point

1.3 At the 18 month point, an interim report on progress against the objectives set out in part 1 of the agreement is written by the probationary supervisor with the agreement of the individual (signed by HoD and ED) and is submitted to Academic Staffing Committee.

1.4 Any issues with performance or failure to meet objectives should be picked up at the 18 month interim stage, following the HoD and ED’s receipt of the interim report. ASC may also provide some feedback on the interim report.

1.5 At this point, following ASC, a **first formal written warning** may be given, in line with the University’s Capability Procedure. A Capability Hearing should be held – the individual is entitled to be accompanied by a TU rep or a colleague.

1.6 Following the hearing, the Probation Supervisor and Head of Department must produce or update a Performance Improvement Plan - setting out what improvements are required against the probationary agreement, (the objectives in part 2 of the probationary agreement can be amended to reflect needs), the timescale for achieving the improvement and to identify what support is needed. It should be made clear in writing that if the improvements are not made this could lead to further action under the Capability Procedure and non-confirmation of the probationary period. The plan should ideally be agreed with the individual but does not need to be.

1.7 Over the course of the next 6-9 months, a meeting should be held with the individual at quarterly intervals (e.g. September, December, and March) with the HoD and HR link, to monitor progress against the PIP and make sure full support is in place.

1.8 The discussions at each meeting should be recorded and put in writing to the individual by email promptly following the conversation (copy to HR).

1.9 More regular meetings (either monthly or bi-monthly) can be held with the individual and the HoD and/or probationary supervisor if required.

2.0 It is important to document these meetings as this provides evidence that performance has been managed, expectations have been set and support has been put in place. This evidence will be required should a non-confirmation of probation result.

2.1 If the formal written warning was not given at the 18 month review point, it can be given at one of the quarterly meetings.

24-30 months

2.2 Following the earlier warning and a further period of review (at around 30 months into the probation period), if insufficient progress has been made, a **final written warning** may be given. A Capability Hearing should be held in line with the University’s Capability Procedure – the individual is entitled to be accompanied by a TU rep or a colleague.
2.3 Following the hearing, the PIP should be updated and a meeting should be held with the individual at quarterly intervals (e.g. September, December, and March) with the HoD and HR link, to monitor progress and make sure full support is in place.

Application for permanency

2.4 Prior to the meeting of ASC that will consider the individual's application for permanency, towards the end of the 3-year probation, if there are still performance concerns, permanency is not supported by the department or it is uncertain whether the individual will be granted permanency (i.e. a borderline case) the individual should be invited in writing to attend a Capability Hearing to consider dismissal. The hearing should be held in line with the University's Capability Procedure. This will take place with the Executive Dean and HR Manager. The individual is also entitled to be accompanied by a TU rep or a colleague.

2.5 The purpose of this meeting is to allow the member of staff the opportunity to hear the concerns about their performance and the case for dismissal, and to put forward their response to the Executive Dean.

2.6 Following the meeting with the member of staff, the Executive Dean will make a recommendation to ASC. ASC makes the final decision.

2.7 Should ASC decide that permanency should not be granted, the individual should be invited in writing to a dismissal meeting with the Executive Dean, Head of Department and HR, and at which s/he may be accompanied by a TU representative or a colleague, to confirm the decision and provide feedback. If any new case for dismissal has been raised by ASC, this should be provided to the individual and they should have the opportunity to respond.

2.8 If dismissal is confirmed, the individual will have a right to appeal as set out under the Capability Procedure. The timescale for submitting an appeal will start from the date of the dismissal meeting and not the dismissal hearing (which took place before ASC).

2.9 Individual should be given pay in lieu of notice.

3.0 If Academic Staffing Committee decides to extend probation, the capability procedure should be followed for the 12-month extension period.