

Capability Hearing Invitation Letter

Letter · UK · Published 2026-09-08 · Square brackets are placeholders to replace with your own details.

A capability hearing invitation letter is the written notice an employer sends requiring an employee to attend a formal hearing about their performance — setting out the standard being missed and by how much, the support and training already provided, the evidence the hearing will consider, the possible outcomes including dismissal where that is genuinely on the table, and the employee's right to be accompanied.

It is the point at which a performance problem stops being a series of difficult conversations and becomes a formal process with a written record, so the letter carries more weight than its length suggests. Read months later, it is the document that shows whether the employee knew what standard they were missing, whether anyone had actually helped them reach it, and whether they understood what was at stake before they walked into the room. A capability dismissal that follows a vague letter, or one that never mentioned dismissal, is in trouble regardless of how poor the performance was.

This template gives you the full letter with every placeholder marked, plus the surrounding process: how capability differs from conduct, what support must have happened first, what to enclose, how to state the possible outcomes honestly, and what to do when ill health rather than performance turns out to be the real issue.

When to use this letter

Use this letter when the informal stage of your capability procedure has run its course — the concerns were raised, objectives were set, support and training were provided, review meetings happened — and the required standard is still not being met. It calls the formal hearing at which the next step is decided.

It is not the letter for a first conversation about performance. Sending a formal hearing invitation to someone who has never been told plainly that their work is below standard skips the part of the process that does the most good and leaves you with no answer to the obvious question at the hearing: what did you do to help? If the concern is new, start with the informal stage in our capability policy.

It is also not the letter for a probationer, unless your probation policy routes probation concerns through the capability procedure. Probation has its own review and non-confirmation route, with its own letters.

Capability is not conduct — and the letters are not interchangeable

Capability is about cannot: the employee is trying, and the skill, aptitude, knowledge, or health is not there. Conduct is about will not: the ability exists and is not being applied — lateness, cutting corners, refusing a reasonable instruction. Section 98 of the Employment Rights Act 1996 treats them as separate potentially fair reasons for dismissal, and Acas guidance distinguishes them the same way, because they call for different responses. Capability calls for training, adjustment, and time; conduct calls for a sanction.

Reaching for the disciplinary hearing invitation letter to deal with a performance problem is a common and expensive mistake. It tells the employee they are accused of something rather than falling short of something, which turns a fixable problem adversarial on the day the letter lands. It also puts the wrong reason on the file: if the case ends in dismissal, the reason you can evidence is the one your paperwork

describes, and a disciplinary file that talks about allegations and misconduct is a poor foundation for a capability dismissal. Where an employee is genuinely capable but not bothering, that is conduct, and the disciplinary route is the right one — just make the choice deliberately and record why.

When the cause is unclear, start with capability. It is straightforward to move to a conduct process later once the evidence points that way; it is very hard to un-ring the disciplinary bell after accusing someone who turned out to need training or a hearing test.

What must have happened before this letter goes out

- The standard was made clear and is measurable. "Improve your work" is not a standard; [number] calls handled per shift to [quality measure], or [document] completed within [timeframe], is.
- The gap was raised with the employee at the time, not stored up. Review notes should show the concern being fed back as it arose.
- Support was actually provided and is documented — training on [topic] delivered on [date], coaching, revised priorities, closer supervision, a working system that functions, equipment that is fit for the job.
- An improvement period was set with objectives and review dates, and the employee knew what the review would measure. A performance improvement plan is the usual vehicle.
- The reviews happened on the dates promised. Missed review meetings are the single most common weakness in a capability file, and the employee will notice them before you do.
- Health, disability, caring responsibilities, and workload have been asked about and considered — including any reasonable adjustments already agreed and whether they were implemented.
- The comparison is fair: colleagues doing the same job under the same conditions are held to the same standard, and any difference in treatment can be explained.
- The person chairing the hearing has the authority to reach the outcomes the letter names, and — wherever the size of [Your company] allows — was not the manager running the improvement plan.

The evidence pack to enclose

- The performance improvement plan or the written objectives, with the dates they were set and reviewed.
- Notes of the informal conversations and every review meeting, including the ones where progress was acknowledged.
- The performance data itself for the relevant period — figures, error logs, customer feedback, audit results, quality checks — with the comparable standard alongside it so the gap is visible without a commentary.
- Training records: what was delivered, when, by whom, and whether the employee completed it.
- The job description, the relevant standard or procedure, and the capability policy under which the hearing is being held.
- Any occupational health report or medical evidence, where health is in issue and the employee has agreed to it being used.
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Nothing that has not been shared with the employee. If a document is going to influence the decision, it goes in the envelope with this letter.

The letter template

[Date]

Private and confidential

Dear [first name],

Invitation to a formal capability hearing

I am writing to invite you to a formal capability hearing under the [Your company] capability procedure, a copy of which is enclosed. The hearing will take place on [date] at [time] at [location, or video-call details]. It will be chaired by [name, job title], and [name, job title] will attend to take notes.

The purpose of the hearing is to consider your performance in the role of [job title], and specifically the following concerns: [set out each concern with the standard that applies, the actual performance, and the period it covers — for example, "the standard for [task] is [measure]; between [date] and [date] your recorded performance was [measure]". Write it so that someone who does not know the job could see what the standard is and by how much it has been missed. General labels such as "underperformance" or "poor attitude" are not concerns anyone can answer.]

These concerns have been discussed with you before. [Set out the history honestly and in order: the informal conversation on [date]; the performance improvement plan agreed on [date] with objectives [objective 1] and [objective 2]; the training on [topic] provided on [date]; the review meetings on [dates] and what each concluded.] Despite that support, the required standard has not been met.

I enclose the documents the hearing will consider: [the performance improvement plan of [date]; review meeting notes of [dates]; performance data for [period]; training records; the job description and [relevant standard or procedure]; [the occupational health report of [date]]]. If you want the hearing to consider any documents of your own, or to hear from any witness, please send me copies and names by [date].

I must tell you the possible outcomes of this hearing. They are: [no further action; a further period of improvement with additional support; a first written warning under the capability procedure; a final written warning; redeployment to a suitable alternative role, where one is available]. [Where dismissal is genuinely possible, say so plainly and give the reason it is possible: "Because you are at the final stage of the capability procedure following the final written warning issued on [date], I must also tell you that one possible outcome of this hearing is the termination of your employment on grounds of capability."] No decision has been made, and none will be made until you have had a full opportunity to respond.

You have the right to be accompanied at the hearing by a colleague or a trade union representative. Please tell me the name of your chosen companion by [date]. If your companion cannot attend at the time above, tell me as soon as possible and propose an alternative time within five working days of [date], and we will rearrange.

At the hearing you will be able to respond to each concern, put forward your own evidence, and tell us anything that has affected your performance that we may not know about — including any health condition,

disability, caring responsibility, workload, equipment or training gap. If there is anything that would help you do the job to the required standard, the hearing is the place to raise it.

If you need an adjustment to take part fully in the hearing — for example because of a disability — please tell me before the hearing and we will make it. If you cannot attend for a genuine reason, contact me as soon as possible and we will rearrange. If you fail to attend without good reason, the hearing may proceed in your absence on the evidence available; we would tell you before doing so and invite you to send a written statement.

The outcome will be confirmed to you in writing, with reasons, and you will have the right to appeal against it.

If you would like to discuss anything in this letter before the hearing, please contact me on [phone/email].

Yours sincerely,

[Name], [job title], [Your company]

Stating the possible outcomes honestly

The Acas Code expects an employee to be given enough information about the case and its possible consequences to prepare for the meeting, and this paragraph is where employers most often lose their nerve. Two failures are equally damaging. The first is a letter that never mentions dismissal, followed by a dismissal — the employee was never told what was at stake and could not prepare for it. The second is a letter that threatens dismissal at the first formal stage to concentrate the mind, when the procedure does not actually allow it: the threat is not credible, it poisons the hearing, and it makes the eventual real warning look like more of the same.

Match the outcomes to the stage. A first formal capability hearing normally offers no further action, a further improvement period, or a first written warning. A hearing following a live final written warning is where dismissal genuinely enters the list, and when it does, the letter must say so in terms and say why it is possible — the live warning, or the exhausted improvement period. Where redeployment to a suitable alternative role is realistically available, name it: it is often the outcome that resolves a capability case, and it should not appear for the first time in the outcome letter.

When ill health is the real issue

Health-related inability is inside the definition of capability — section 98(3) of the Employment Rights Act 1996 refers to skill, aptitude, health or any other physical or mental quality — but a performance hearing is the wrong vehicle for it, and pressing on regardless is how employers end up defending a disability discrimination claim as well as an unfair dismissal one. If health surfaces before the hearing, or the employee raises it in the room, adjourn.

What follows an adjournment is a different route: get up-to-date medical evidence with the employee's consent, normally through occupational health, with specific questions — can they do this job, with what adjustments, and over what timescale? Consider reasonable adjustments under section 20 of the Equality Act 2010, which requires such steps as it is reasonable to have to take to avoid a substantial disadvantage to a disabled employee, and remember the duty applies whether or not the employee uses the word "disability". Acas guidance says dismissal because of long-term illness would usually be a capability issue

and that dismissal should be a last resort, and expects the employer to have supported the employee, considered adjustments, and investigated fully first.

Practically: rewrite the invitation so it is honest about what the meeting is for. A letter about missed targets, when the real subject is whether the employee can do the job with their condition, tells the employee to prepare for the wrong meeting. Change the subject line, list the medical evidence as the material to be considered, state the possible outcomes for a health capability case — adjustments, redeployment, a phased return, or where nothing else is workable, dismissal on ill-health capability grounds — and keep the right to be accompanied and the right of appeal exactly as they are.

Running the hearing and confirming the outcome

1. Give the employee enough notice to read the pack and arrange a companion — [number] working days, scaled up when the evidence is heavy — and record the date the letter was sent.
2. Open the hearing by confirming which concerns are being considered and what the possible outcomes are, then take each concern in turn and hear the employee's response before commenting.
3. Ask directly what would help. Most capability hearings surface at least one thing nobody had fixed: a missing licence, an unusable system, a shift pattern, a health condition never mentioned.
4. Adjourn before deciding, and adjourn properly if new information arrives — a health issue, a training gap, or evidence the employee has produced that needs checking.
5. Confirm the outcome in writing with the reasons, the standard now required, the timescale, the support to be provided, and how long any warning stays live under your capability policy.
6. Give a right of appeal in the outcome letter, with a named person and a deadline, and hear any appeal impartially — wherever possible with a manager who has not previously been involved in the case.

Delivery and record-keeping

- Hand the letter over in person where you can, and send a copy by [email and/or post to the home address] the same day so receipt is not in dispute.
- Check every listed enclosure is actually attached before it goes — a missing review note discovered at the hearing means an adjournment.
- File the letter, the enclosure list, the hearing notes, and the outcome letter in the employee's capability file at [system/location], kept separate from disciplinary records so the two processes do not blur.
- Diarise the review dates and any warning expiry date set by the outcome, and hold the reviews on the dates promised.
- Record the reason the capability route was chosen over the disciplinary one. It takes a sentence, and it is the sentence that explains the file to anyone reading it later.
- Retain records in line with your data retention policy, and treat occupational health reports and medical evidence as special category data under your data protection policy.

How to use this template

- 1.

Check first that this is capability and not conduct — cannot, not will not — and record in one sentence why you have chosen this route.

2. Complete the informal stage before you send it: clear standards, documented support and training, an improvement period, and reviews that actually happened.
3. Write each concern with the standard, the actual performance, and the period, so a stranger could see the size of the gap without a commentary.
4. List and enclose everything the hearing will consider, and share nothing at the hearing that was not in the pack.
5. State the possible outcomes honestly for the stage you are at — name dismissal only where it is genuinely possible, and say why it is possible.
6. Adjourn and change route if ill health turns out to be the real issue, then confirm the outcome in writing with reasons and a right of appeal.

Official guidance

- › legislation.gov.uk — [Employment Rights Act 1996, section 98](#)
- › [Acas — Types of dismissal, including capability and ill health](#)
- › [GOV.UK — Dismissals on capability or conduct grounds](#)
- › [Acas — Code of Practice on disciplinary and grievance procedures](#)

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