

## CAPABILITY POLICY

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Relevant Staff Groups:	All Trust staff (excluding Medical staff)

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## DOCUMENT CONTROL

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<b>Amendments</b>	Addition to policy to incorporate fitness to undertake restrictive interventions training at 2.6 and Appendix A		
<b>Document objectives:</b> This policy is designed to help and encourage all employees to achieve and maintain standards of performance and attendance. This policy also sets out the process which will be followed when performance falls below what is expected.			
<b>Intended recipients:</b> All Trust staff (excluding Medical and Dental staff)			
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<b>Contact for review</b>	Head of HR Operations		
<b>Lead Director</b>	Director of HR & Workforce Development		

## CONTRIBUTION LIST Key individuals involved in developing the document

Name	Designation or Group
All Group Members	JPRG
All Group Members	JMSSC
All Group Members	Regulation Governance Group
All Group Members	Senior Managers Operational Group
Andrew Sinclair	Equality and Diversity Lead

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## **1. INTRODUCTION**

- 1.1 Somerset Partnership NHS Foundation Trust (the Trust) recognises that sometimes an individual's poor performance is due to an inability, or lack of capability, to perform adequately in the workplace rather than an unwillingness to do so. In these circumstances, it will be appropriate for the manager to work with the individual to identify the problems and devise an action plan to rectify them, by providing additional support, or training, or by other means, such as redeployment.
- 1.2 This policy underlines The Trust's commitment to this process and provides a framework to deal with capability issues in a sensitive and supportive manner.
- 1.3 As a publicly funded NHS body, the Trust expects high standards from all of its employees and, in line with the key principles of the Constitution, the Trust aspires to the highest standards of excellence and professionalism in the people it employs, the education, training and development they receive and in the leadership and management of the organisation.
- 1.4 The Trust commits to provide staff with clear roles and responsibilities and rewarding jobs for teams and individuals that make a difference to service users, carers and communities.
- 1.5 The Trust commits to provide line management support and proper opportunities for learning and development to ensure that employees have the skills they need to perform their duties and to succeed in their jobs.
- 1.6 This policy and supporting procedure sets out a fair and effective means of dealing promptly with situations or circumstances in which an employee does not meet the required standards of work.
- 1.7 This policy and procedure will not discriminate, either directly or indirectly, on the grounds of the nine protected characteristics (age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion and belief, sex, sexual orientation).
- 1.8 Employees have the right to be represented by a trade union representative or work colleague at any meetings held under the formal stages of the Capability Procedure.
- 1.9 The timescales set out in the Capability Procedure should be adhered to wherever possible, in line with the Equality Act 2010.
- 1.10 Employees have a right of appeal against any formal action taken, for example, formal warnings and / or termination of contract. In the event of an appeal, the procedure set down in the Disciplinary Policy shall be applied.

## **2. PURPOSE & SCOPE**

- 2.1 This policy and procedure will apply to those individuals who are employees of the Trust.

- 2.2 In the case of other staff (workers), such as secondees or agency staff, responsibility for dealing with matters of poor performance and capability rests with the individual's statutory employer.
- 2.3 Capability is assessed by reference to the knowledge, skills and competence of the employee in relation to the job they are employed to perform. This procedure is therefore designed to assist where poor performance indicates a lack of ability or skill and to provide an environment in which such issues can be addressed constructively in the interests of all parties. This procedure does not cover incapability due to ill health, nor does it cover failure to make use of abilities through laziness or negligence; the Trust has other procedures for such circumstances.
- 2.4 Where poor performance is considered to be due to unwillingness to carry out duties properly, rather than inability to do so, it is appropriate to follow the Disciplinary Policy.
- 2.5 Where incapability is due to ill health, the Managing Absence Policy will be applied. If an individual's home or other personal circumstances are impacting on their ability to perform effectively in the job, consideration should be given to whether changes to work arrangements can be made without compromising the business needs of the Trust.
- 2.6 Where incapability relates to the ability to undertake physical restrictive interventions or the restrictive interventions training programme, the guidance attached at Appendix A should be followed.
- 2.7 Where the circumstances of a situation suggest a combination of factors, such as conduct and capability, the principal reason for action should be discussed and agreed with the employee and the appropriate procedure used. The use of this Capability Procedure does not preclude the use of another procedure when it becomes appropriate.

### **3. DUTIES AND RESPONSIBILITIES**

#### **3.1 The Trust will**

- Ensure those authorised to take action at the appropriate stages listed in section 16 are trained and competent
- Ensure adherence to the policy by involving an HR specialist

#### **3.2 Managers will**

- have responsibility for the careful selection and induction of new members of staff, for ensuring that all employees are aware of the standards required of them in terms of work performance and for ensuring they are adequately trained for the jobs they are employed to perform
- be responsible for evaluating learning opportunities with the members of their team
- take into account an individual's protected characteristics, as defined by the Equality Act 2010, such as disability or strict religious

observance, which may affect their work performance or competence. In these circumstances full consideration must be given to making adaptations or reasonable adjustments to support the employee. Consideration may also be needed on the planning and timing of regular work activities and different ways of communicating instructions. Managers must guard against stereotyping or preconceived notions of a person's abilities/capability based on the person's protected characteristics.

- 3.3 **Employees** have a responsibility to achieve and maintain the standards that have been set by their Manager, to co-operate with their managers in identifying development needs and to act on them
- 3.4 **Human Resources** must be involved in consideration of an employee's work performance prior to any formal meeting being arranged and should attend any meetings convened under the formal stages of the procedure
- 3.5 **Trade Union Representatives/Staff Side Representatives** will support the employee to understand the procedures and the reasons for the action being taken and to assist the employee in making their case.

#### 4. EXPLANATIONS OF TERMS USED

- 4.1 Capability relates to the skill, aptitude, knowledge and competence of the employee in relation to the job they are employed to perform.

#### 5. APPLICATION OF THE CAPABILITY POLICY

- 5.1 In handling issues of performance under this policy, the informal and formal stages will normally be followed sequentially. However, there may be circumstances in which it is necessary to omit one or more stages, according to the severity of the shortcomings, mistakes, or errors identified. This will only be done with the advice from Human Resources.
- 5.2 This policy should only be applied once circumstances or factors directly within the control of managers have been eliminated as contributing factors to a level of performance below that which might be expected. Examples of such factors might include:
  - recent significant amendments to a job description;
  - recent introduction of new systems or technology; and
  - employees in their induction period
- 5.3 Consideration should be given to involving expert or professional advisors where jobs incorporate highly technical aspects or elements that are not familiar to the manager. The relevant Head of Profession will always be advised where a registered professional is subject to the formal stage.

## **INFORMAL STAGE**

- 5.4 Managers should always be monitoring the performance of all their members of staff, using the Staff Appraisal and Management Supervision Policy.
- 5.5 Where the performance of an employee is deemed to be below the required standard set by the Manager, the managers should meet with the employee as part of routine management supervision, and set out in a clear and understandable way where and how the performance falls short of the required standard and what that standard is. The manager may also ask the employee for his or her views on a programme of future support or training. The meeting should be held in as positive and supportive an environment as possible.
- 5.6 The employee should be given every opportunity to ask for clarification of the standards expected and to bring to the manager's attention any issues that may have affected his or her performance, including work and personal circumstances. This may also help the manager in assessing whether advice is required from Well@Work or Occupational Health and whether it is appropriate to remind the employee about the availability of the Trust's Care First Counselling service. The employee may also like to discuss any learning needs.
- 5.7 The manager should ascertain from the employee's comments whether he or she accepts that there is a problem and assess the importance of any mitigating circumstances.
- 5.8 Having assessed the situation the manager should discuss as part of routine management supervision, and agree with the employee, the actions necessary to achieve the improvements in performance that are expected. This should consist of:
- a clear statement of the standards to be achieved
  - a realistic time scale for those improvements (usually between four and eight weeks)
  - details of any support or training to be provided
  - provision for regular monitoring meetings and
  - details of how performance will be measured
- 5.9 The manager should indicate to the employee that a failure to meet the required standards within the set period may mean that formal action will need to be taken in the future. The review period set under the informal stage may be shortened if serious problems arise during it.
- 5.10 The areas discussed at the meeting and actions should be documented on the management supervision paperwork.
- 5.11 If the employee adequately meets the required standards within the set period, this should be documented on the management supervision paperwork.

5.12 The management supervision paperwork will be retained in line with the Staff Appraisal and Management Supervision Policy.

### **FORMAL STAGE ONE**

5.13 If the informal stage proves unsuccessful in assisting the employee to meet the targets set, or achieve the required standard, or a serious mistake or shortcoming occurs, the manager should move to the first formal stage, after seeking advice from Human Resources.

5.14 Having reviewed the performance and compiled examples of the shortcomings, the manager should invite the employee to attend a formal meeting in writing, arranged for a mutually convenient date. The meeting should, wherever possible, be arranged in consultation with the employee and take account of any adjustments that may be required to accommodate any disability or other equality / diversity factor. The notification of the meeting will outline the reasons for the meeting, include copies of any documents to be referred to at the meeting and remind the employee of the right to be accompanied.

5.15 The employee should take all reasonable steps to attend the meeting. Once a date has been arranged, any request from the employee for a postponement due to the unavailability of their representative will be granted in line with paragraph 5.51-5.56.

5.16 At the meeting, the manager should confirm the formal nature of the meeting and detail the shortcomings in performance that have been identified.

5.17 The employee should be given every opportunity to ask for clarification of the standards expected and to bring to the manager's attention any issues that may have affected his or her performance, including work and personal matters. The employee may also like to discuss any training needs.

5.18 The manager should then review the management supervision paperwork and actions previously documented. A new time scale for the achievement of the required standards should be set and documented on the management supervision paperwork. This should allow sufficient time to meet the standards, but it should not be unduly prolonged. This would usually be between four and eight weeks, depending upon the circumstances.

5.19 The manager may issue the equivalent of a first formal warning, called 'an improvement note' which will specify the performance problem, the improvements and standards required, the time scale for achieving this, details of any additional support, supervision or training to be given and the frequency of review meetings to be held during the improvement period set. The manager should indicate to the employee that a failure to meet and maintain the required standards within the set period will mean that the second formal stage of the procedure (final warning) will be initiated, which could ultimately lead to dismissal.



- 5.20 The 'improvement note' should be sent by the Manager within ten working days of the meeting, enclosing a copy of the management supervision paperwork, and must include the right of appeal.
- 5.21 The 'improvement note' will remain 'active' for a minimum of twelve months, during which the required standards, once reached, should be maintained. The warning will not be regarded for the purposes of this procedure once it has expired.
- 5.22 If the employee adequately meets the required standards within the set period, the manager should meet the employee at the end of the period to confirm that this is the case and that the warning issued has expired. No further action will be taken if the standards continue to be met, although the employee's performance will continue to be monitored in the usual way.
- 5.23 The record of areas discussed at the meeting under the first stage of the formal procedure should normally be retained on an employee's file until the warning period has expired.

## **FORMAL STAGE TWO**

- 5.24 If it becomes evident to the manager that the required standards have not been met, or are failing to be met and are judged unlikely to be met within the time scale set under the first formal stage, or if a very serious mistake or shortcoming occurs for the first time, it may be necessary to commence the second formal stage.
- 5.25 Before initiating the second formal stage, the manager, with advice from Human Resources, should give full consideration to:
- the steps taken to encourage improvement
  - the level of improvement attained
  - any extenuating circumstances identified
  - the possibility of alternative employment if appropriate and
  - the attitude of the employee
- 5.26 The manager should formally invite the employee to attend a meeting in writing arranged for a mutually convenient time. Meetings should, wherever possible, be arranged in consultation with the employee and take account of any adjustments that may be required to accommodate any disability or other equality / diversity factor. The notification of the meeting will outline the reasons for the meeting, include copies of any documents to be referred to at the meeting and remind the employee of the right to be accompanied.
- 5.27 The employee should take all reasonable steps to attend the meeting. Once a date has been arranged, any request from the employee for a postponement due to the unavailability of their representative will be granted in line with paragraph 5.51-5.56.
- 5.28 At the meeting, the manager should confirm the formal nature of the meeting and detail the shortcomings in performance that have been identified, any action taken so far and improvements that have been made.

- 5.29 The employee should be given every opportunity to ask for clarification of the standards expected and to bring to the manager's attention any issues that may have affected his or her performance, including work and personal matters. The employee may also like to discuss any training needs.
- 5.30 The manager may wish to discuss any options for redeployment to another post that might be more suitable to the person's skills and abilities, if one is available, with the employee at this stage. If the employee opts to consider redeployment, he or she will be required to apply for available posts that have been identified as suitable in consultation with his or her manager and Human Resources for a period agreed at the meeting. If an employee opts for redeployment in these circumstances, pay protection arrangements would not apply.
- 5.31 The manager should then review the original actions and amend it as necessary and arrange a follow up meeting. A new time scale for the achievement of the required standards should be set. This should allow sufficient time to meet the standard, but it should not be unduly prolonged. This would usually be between four and eight weeks, depending upon the circumstances.
- 5.32 The manager may also issue a final formal warning which should specify the improvements and standards required, details of any additional support, supervision or training to be given and the frequency of review meetings to be held during the improvement period set.
- 5.33 The manager should indicate to the employee that a failure to meet and maintain the required standards within the set period will mean that the final stage of the procedure will be initiated, which could result in dismissal.
- 5.34 The warning letter and details of the meeting should be confirmed by the manager in writing, and must include the right of appeal.
- 5.35 The final formal warning will remain in place for a minimum of eighteen months, during which the required standards, once reached, should be maintained. The warning will not be regarded for the purposes of this policy once it has expired.
- 5.36 If the employee adequately meets the required standards within the set period, the manager should meet the employee at the end of the warning period to confirm that this is the case and that the warning issued has expired. No further action will be taken if the standards continue to be met, although the employee's performance will continue to be monitored in the usual way.
- 5.37 The record of areas discussed at the meeting under the second stage of the formal procedure should normally be retained on an employee's file until the warning period has expired.

## **FINAL STAGE**

5.38 If it becomes evident to the manager that the required standards have not been met, or that the required standards are failing to be met and are unlikely to be met within the time scale set, or an extremely serious mistake or shortcoming occurs for the first time, then it may be necessary to commence the final formal stage.

5.39 Before initiating the final formal stage, the manager, with advice from Human Resources, should give full consideration to:

- the steps taken to encourage improvement
- the level of improvement attained
- any extenuating circumstances identified
- the possibility of alternative employment if appropriate, and
- the attitude of the employee

5.40 Meetings should, wherever possible, be arranged in consultation with the employee and take account of adjustments that may be required to accommodate any disability or other equality / diversity factor. The notification of the meeting will outline the reasons for the meeting, include copies of any documents to be referred to at the meeting and remind the employee of the right to be accompanied.

5.41 The meeting must be chaired by a manager with the authority to dismiss, who will be supported by an appropriate member of the Human Resources team.

5.42 The employee should take all reasonable steps to attend the meeting. Once a date has been arranged, any request from the employee for a postponement due to the unavailability of their representative will be granted in line with paragraph 5.51-5.56.

5.43 At the meeting, the manager chairing the meeting should confirm the formal nature of the meeting.

5.44 Full details of the shortcomings in performance that have been identified, any improvements that have been made and any mitigating circumstances must be presented. If the employee's line manager is not chairing the meeting, then he or she may present the case.

5.45 The employee should be given every opportunity to bring to the meeting manager's attention, any issues that may have affected his or her performance, including work and personal matters. The employee may also like to discuss any training needs.

5.46 Where the meeting manager decides dismissal on the grounds of capability is appropriate, the employee should be dismissed with notice and informed of their right of appeal, in line with the appeals procedure set down in the Disciplinary Policy.

- 5.47 The decision to dismiss should be confirmed by the meeting manager in writing within ten working days of the meeting.
- 5.48 If the manager decides not to dismiss, an action plan and a further final warning, in line with the second formal stage described above, may be set again.

### **RIGHT OF APPEAL**

- 5.49 The employee has a right of appeal against any dismissal or warning issued under the formal stages of this procedure. Appeals should be made in writing, to the Director of Human Resources & Workforce Development, outlining the reasons for the appeal, within ten working days of the date of the letter confirming details of the warning or decision to dismiss.
- 5.50 The Director of Human Resources & Workforce Development will arrange a meeting to consider the matter, in line with the arrangements for an appeal against a warning, under the Disciplinary Policy. An appeal against dismissal will be arranged in line with the arrangements for an appeal against dismissal in the Disciplinary Policy.

### **RIGHT TO BE ACCOMPANIED**

- 5.51 At the formal stages of the procedure, including an appeal, the employee has the right to be accompanied by a Trade Union representative or a workplace colleague. Requests by the employee for additional support at any meetings, under the formal stages of the procedure, will be considered; for example, where disability is involved and familiarity with the impairment or the individual, or specialist input would be beneficial.
- 5.52 It is the responsibility of each employee to arrange such a companion.
- 5.53 Employees may ask an official from any Trade Union or a fellow worker to accompany them at a formal meeting. There is no duty on a fellow worker or a Trade Union (of which the employee is not a member) to accept a request to accompany an employee and no pressure should be brought to bear on an employee if they do not wish to act as a companion or representative.
- 5.54 An employee or lay trade union official employed by the Trust, who has agreed to accompany a colleague also employed by the Trust, is entitled to take a reasonable amount of time off to fulfil this responsibility. The time off may cover not only the meeting but should also allow a reasonable amount of time off for the companion to familiarise him or herself with the case and confer with the employee before and after the meeting.
- 5.55 Where the chosen companion cannot attend on the date proposed, the employee can offer an alternative time and date so long as it is reasonable and convenient for the manager and falls before the end of the period of five working days, beginning with the first working day after the day proposed by the manager.

5.56 A companion may, with the employee's permission, address the meeting to put forward the employee's case, to ask questions on behalf of the employee and to sum up. They may also respond on the employee's behalf to views expressed at the meeting and confer with the employee during the meeting. The companion does not however have the right to answer questions on the employee's behalf or prevent the employer from explaining their case.

## **6. ACCREDITED REPRESENTATIVES OF TRADE UNIONS OR STAFF ORGANISATIONS**

6.1 In cases where formal action is being considered against an accredited representative of a recognised trade union or staff organisation, the manager will seek to discuss the details in advance with a full time official of the organisation concerned.

## **7. COMPLAINTS / GRIEVANCES DURING THE CAPABILITY PROCESS**

7.1 If the employee raises a grievance or makes a complaint under the Grievance and Disputes Policy about the application of the procedure or another related matter, the manager and Human Resources should consider whether the capability procedure should be suspended whilst the complaint is investigated. Human Resources should carry out a brief review of the complaint to ascertain if the complaint has face validity.

7.2 Complaints must be genuine and other procedures should not be used to try to circumvent the reasonable actions of managers to bring about improvements in an employee's performance. If an investigation concludes that the grievance or complaint was groundless and raised with the intention of avoiding or ending action being taken by the manager to bring about the necessary improvements, consideration will be given to whether disciplinary action should be taken against the employee on grounds of misconduct.

## **8. MEDIATION**

8.1 Consideration will be given to whether the involvement of a third party might assist in addressing performance issues and / or in rebuilding relationships after a capability procedure. This might involve an internal mediator who has not been involved or an external mediator.

8.2 Mediation is an entirely voluntary process for both sides in any issue and does not preclude the use of other stages of this policy if it is not successful.

## 9. LEVELS OF AUTHORITY TO UNDERTAKE FORMAL ACTION

<b>IMPROVEMENT NOTICE (FIRST FORMAL WARNING)</b>	<b>FINAL FORMAL WARNING</b>	<b>FINAL STAGE (DISMISSAL)</b>
Team / Ward Manager Divisional Manager HR Manger Head of Division Director	Team / Ward Manager Divisional Manager HR Manager Head of Division Director	Divisional Manager Head of Division Director

## 10. TRAINING REQUIREMENTS

- 10.1 The Trust will work towards all staff being appropriately trained in line with the organisation's Staff Training Matrix (training needs analysis) accessible to staff within the Learning and Development Section of the Trust Intranet.
- 10.2 Training on the Capability Policy is available as part of the Trusts' 52 week leadership programme, details of which can be found on the Learning and Development intranet pages.

## 11. EQUALITY IMPACT ASSESSMENT

- 11.1 All relevant persons are required to comply with this document and must demonstrate sensitivity and competence in relation to the nine protected characteristics as defined by the Equality Act 2010. In addition, the Trust has identified Learning Disabilities as an additional tenth protected characteristic. If you, or any other groups, believe you are disadvantaged by anything contained in this document please contact the Document Lead (author) who will then actively respond to the enquiry.

## 12. COUNTER FRAUD

- 12.1 The Trust is committed to the NHS Protect Counter Fraud Policy – to reduce fraud in the NHS to a minimum, keep it at that level and put funds stolen by fraud back into patient care. Therefore, consideration has been given to the inclusion of guidance with regard to the potential for fraud and corruption to occur and what action should be taken in such circumstances during the development of this procedural document.

## 13. MONITORING COMPLIANCE AND EFFECTIVENESS

- 13.1 Monitoring arrangements for compliance and effectiveness will be by the Trust Board.

### 13.2 Responsibilities for conducting the monitoring

Statistics will be submitted quarterly by the HR Director in the Trust Quarterly Board Report.

### 13.3 Frequency of monitoring

Quarterly

## 14. RELEVANT CARE QUALITY COMMISSION (CQC) REGISTRATION STANDARDS

14.1 Under the **Health and Social Care Act 2008 (Regulated Activities) Regulations 2014 (Part 3)**, the fundamental standards which inform this procedural document, are set out in the following regulations:

- Regulation 12: Safe care and treatment
- Regulation 13: Safeguarding service users from abuse and improper treatment
- Regulation 17: Good governance
- Regulation 18: Staffing
- Regulation 19: Fit and proper persons employed
- Regulation 20: Duty of candour
- Regulation 20A: Requirement as to display of performance assessments.

14.2 Under the **CQC (Registration) Regulations 2009 (Part 4)** the requirements which inform this procedural document are set out in the following regulations:

- Regulation 18: Notification of other incidents

14.3 Detailed guidance on meeting the requirements can be found at <http://www.cqc.org.uk/sites/default/files/20150311%20Guidance%20for%20providers%20on%20meeting%20the%20regulations%20FINAL%20FOR%20PUBLISHING.pdf>

## 15. REFERENCES, ACKNOWLEDGEMENTS AND ASSOCIATED DOCUMENTS

### 15.1 References

NHS Commissioning Board, Capability Policy, August 2012

### 15.2 Cross reference to other procedural documents

The Trust Capability Policy is linked with, and may be used in conjunction with, the following policies:

- Anti-Bullying and Harassment Policy
- Disciplinary Policy
- Disciplinary Policy for Medical Staff
- Equal and Diversity Policy
- Grievance Policy
- Learning Development and Mandatory Training Policy
- Managing Allegations Against Staff Policy
- Retirement Policy
- Risk Management Policy and Procedure
- Safeguarding Adults at Risk Policy
- Safeguarding Children – Child Protection Policy
- Sickness Absence Management Policy
- Single Equality Strategy

Smoking Management Policy

Staff Training Matrix (Training Needs Analysis)

Untoward Event Reporting Policy and procedure

Whistleblowing Policy

All current policies and procedures are accessible to all staff on the Trust Internet (on the home page, click on 'Policies and Procedures'). Trust Guidance is accessible to staff on the Trust Intranet (within Policies and Procedures).

## **16. APPENDICES**

16.1 For the avoidance of any doubt the appendices in this policy are to constitute part of the body of this policy and shall be treated as such.

Appendix A	Restrictive Interventions Training
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### Restrictive Interventions Training

This appendix specifically addresses capability to undertake restrictive interventions training, currently a mandatory requirement in Adult, Older Persons and Young Persons mental health inpatient wards. These procedures should be followed where a member of staff is temporarily or permanently unable to complete the restrictive intervention training appropriate to their duties.

All clinical nursing staff working on Magnolia or Pyrland wards must attend the Older Adults Safe Holding Training. All clinical nursing staff working on Ash, Holford, Rowan, Rydon, St Andrews, Wessex or Willow wards must attend and pass the Restrictive Interventions Teamwork Course.

Staff may become unable to complete the appropriate restrictive intervention training, and these staff fall into two categories:

- i. temporarily unable to complete; or
- ii. permanently unable to complete.

Reasons why staff may be unable to complete relevant training:

- health reasons – temporary or permanent;
- non-specific reasons – ongoing problems (eg. increasing physical frailty);
- physically unable to carry out activities such as getting up off the floor unaided (which may also affect ability to carry out other training such as resuscitation and moving and handling). This may be due a number of factors including the effects of ageing and/or an increase in weight, leading to a decrease in flexibility);
- lack of ability to carry out restrictive intervention training.

The risks associated with staff being unable to be trained in restrictive intervention are outlined below:

- patient and staff safety could be compromised where there are insufficient numbers of staff trained;
- difficulty in rostering of shifts – insufficient restrictive intervention trained staff;
- cost – additional staff from agency;
- exposure of the Trust to claims

In the light of these risks the following actions have been put in place;

Staff will be given three attempts to complete the restrictive interventions training in any one six-month period. This includes failure either to attend or successfully complete available training. If the training is either not available or cancelled by the organisation, this will not count as part of the three failed attempts in any six month period

A review of all staff will be undertaken every year during the PDR/Appraisal process to ensure fitness to continue in the role with referral to Staff Occupational Health where necessary;

If a member of staff is unable to achieve the relevant restrictive intervention training, management action will be taken in line with this Policy, including a risk assessment related to the role and a referral to Staff Occupational Health (see flowchart). It is a contractual requirement that staff fully co-operate with this process.

Where restrictive intervention training achievement is deemed essential for the role, and the existing/prospective member of staff asserts that they have a condition that falls within the Equality Act and it is the advice of Staff Occupational Health that the individuals' condition falls within the provisions of the Equality Act, then the manager, with advice from Human Resources will consider what reasonable adjustments can be made to accommodate the staff member's condition within the overall needs of the service. For existing staff, this may involve redeployment. For prospective staff the Trust will make a decision as to whether 'reasonable adjustments' can be made within the prospective job role to permit recruitment of the staff member and ensure compliance with the Equality Act.

If Staff Occupational Health advice is at variance with that given by other professionals e.g. General Practitioners regarding the person's ability to undertake the restrictive interventions training, following a meeting between relevant parties the Director of Operations will make a final decision based on the evidence available with regard to the next steps to be taken. This may include formal proceedings under the Trust's Capability Policy and this may lead to dismissal from the Trust.