Capability procedure – pros and con’s

Capability is one of six potentially fair reasons for dismissal

1. A reason related to your ***capability***or ***lack of qualifications*** to do the job properly

see ERA sub-section 98(2)(a).

1. A reason related to your ***conduct***

see ERA sub-section 98(2)(b).

1. Your ***redundancy***

see ERA sub-section 98(2)(c).

1. Some ***legal bar or requirement***means that you cannot continue in your position

see ERA sub-section 98(2)(d).

1. Your ***retiremen****t*

see ERA sub-section 98(2)(ba).

1. There was ***some other substantial reason*** that could justify the dismissal of an employee holding the position which you held

see ERA sub-section 98(1)(b).

Can ‘muddy’ the issues by having parallel procedures (i.e. alongside a disciplinary procedure)

Perceived as being ‘fairer’ as the primary aim is to be supportive and developmental