Incapacity Enquiry Preparation Checklist

1 / Establish the issue and prepare a fair process

Use this adaptable planning tool before an incapacity enquiry. Tick a box only when addressed and record supporting references. Mark unresolved or inapplicable items with reasons. It is not a prescribed form, a dismissal scorecard or a guarantee of fairness.

Employee / secure reference: _____ Role: _____

Prepared by: _____ Date: _____ Planned review: _____

A. Identify the real work problem

[ ] State the duties or work requirements affected, the observed difficulty and its practical effect. Separate facts from assumptions and disputed accounts.

[ ] Use the book's four-group framework as a practical aid: performance; ill health/injury; relational difficulty; legal/regulatory or external impediment. These are not statutory tests.

[ ] Distinguish inability from culpable conduct and genuine operational change. Where causes overlap, identify and fairly assess each issue rather than forcing one label.

[ ] Identify the relevant law, 2025 Dismissal Code guidance, collective agreement and binding workplace procedure. Check protected-ground and disability issues where relevant.

Actual issue, possible overlap and evidence references:

B. Plan meaningful participation

[ ] Explain the capacity concern and possible consequences clearly. Provide relevant material and a reasonable opportunity to prepare and respond; avoid a predetermined outcome.

[ ] Arrange applicable representation/assistance, language and accessibility support. Check the governing procedure; do not assume courtroom formalities or a universal notice period.

Notice / information to provide, assistance and preparation arrangements:

© 2026 Philip Maré | Practical employer resource

Incapacity Enquiry Preparation Checklist

2 / Test the evidence and investigate alternatives

C. Build an evidence-based record

[ ] Index relevant records and source dates. Include material that supports or contradicts the concern and identify reliability limits or missing information.

[ ] For performance, clarify the standard, how it was communicated, actual performance, relevant causes, support provided and the opportunity to improve.

[ ] For health-related concerns, focus on relevant functional ability, restrictions, likely duration and uncertainty. Request and handle information lawfully and proportionately.

[ ] For relational or external difficulties, establish concrete facts, each person's contribution or the actual impediment, duration and possible resolution. Avoid blame-based labels.

Material gaps / employee explanation / further investigation required:

D. Assess workable alternatives

[ ] Consider relevant support, training, adjustments, temporary arrangements, available suitable work and employee proposals. Record feasibility and reasons; do not promise a vacancy or benefit.

[ ] Where disability protections apply, investigate reasonable accommodation. Assess options in context rather than treating inconvenience as a sufficient answer.

[ ] Allow the employee to address material adverse information and proposed reasons. If information is missing, investigate why and consider a fair, lawful way to proceed.

Option / proposal	Evidence and employee input	Feasible / further assessment / reasons

© 2026 Philip Maré | Practical employer resource

Incapacity Enquiry Preparation Checklist

3 / Close gaps before deciding the next step

E. Readiness review

[ ] Assess the reason and process separately. No particular document, diagnosis, elapsed period or completed checklist determines the outcome by itself.

[ ] If dismissal is contemplated, explain why no reasonable and workable alternative identified would enable the relationship to continue on the facts. Keep this as a reasoned employer assessment, not an adjudicated finding.

[ ] Record unresolved issues, contrary evidence and the employee's response. Pause for a material gap rather than using the form to fill an evidential gap.

[ ] Check the appropriate communication, applicable dispute route and information required by law or binding procedure. Do not invent a universal internal appeal entitlement.

F. Action record

Outstanding issue / next step	Owner	Practical target / result

Next step and reasons (continue investigation / consult / obtain advice / refer for decision):

Acknowledgement of receipt, if given: _____ Date: _____
A signature records receipt only; record disagreement or inability to sign separately.

Source: Preparing for Incapacity Enquiries, approved Chapters 1-9 and Templates 1-5, 29-31. Use with the applicable law and facts.

© 2026 Philip Maré | Practical employer resource

Incapacity Enquiry Preparation Checklist

4 / About this resource and permission to use it

Practical educational resource

This is a practical educational resource and is not legal advice on a particular matter. Workplace circumstances and applicable legal or contractual requirements may differ.

Permission to download and use

© 2026 Philip Maré. This resource may be downloaded, completed and used in your own workplace matters. It may not be sold, republished or redistributed as a separate resource. Please share the official Maré & Associates website link rather than distributing copies. This permission does not authorise copying or redistribution of the commercial publication or its complete template collection.

Official website: philipmareassociates.co.za

The complete professional publication

Preparing for Incapacity Enquiries: A Practical Guide to Managing Performance, Ill Health and Other Forms of Incapacity — Philip Maré

The complete publication contains the full practical framework, worked examples and 31 adaptable templates.