

MANAGING PERFORMANCE

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1. INTRODUCTION

- 1.1 The organisation is committed to supporting and developing its employees in a fair and equitable manner to ensure that they are able to fulfil their roles and responsibilities to a high level competence standard. The primary aim of this policy is to provide a way of supporting staff in cases where an employee cannot achieve an acceptable level of competence due to lack of ability or skill rather than an act of misconduct.
- 1.2 This procedure runs parallel with the Disciplinary Policy. Poor performance is generally not to be treated as part of a formal conduct process; however where performance fails to reach the desired level despite support and performance management processes, an outcome may be sought via the formal Disciplinary policy, termed a Contractual Review meeting.

KEY PRINCIPLES

- 1.3 This policy is based upon the following key principles:-
- Employers and employees should raise and deal with issues promptly and should not unreasonably delay meetings, decisions or confirmation of those decisions.
 - Employers should ensure that new staff are supported and monitored during their first year of employment
 - Employers and employees should act consistently.
 - Employers should carry out any necessary investigations, to establish the reasons for poor performance/facts of the case.
 - Following an investigation, the employer should inform the employee of the basis of the problem and give them the opportunity to put their case in response before any decisions are made.
 - Employers should allow employees to be accompanied at any formal capability meeting by either a Trade Union Representative or work colleague. Legal representation is not permitted at any stage. The employee is responsible for making their own arrangements for any representation required.
 - Employers should allow an employee to appeal against any formal decision made.

2. EQUALITY IMPACT ASSESSMENT

- 2.1 This document has been assessed for equality impact. This policy is applicable to every member of staff within the organisation and in applying this policy, the Organisation will have due regard for the need to eliminate unlawful discrimination, promote equality of opportunity, and provide for good relations between people of diverse groups, in

particular on the grounds of the following characteristics protected by the Equality Act (2010); age, disability, gender, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, and sexual orientation, in addition to offending background, trade union membership, or any other personal characteristic.

3. DEFINITIONS

- 3.1 The Employment Relations Act (ERA) 1996 states that 'capability is assessed by reference to skill, aptitude, health or any other physical or mental quality'. It also indicates that 'incapability must relate to the work or the kind of work that the employee was employed by the employer to do'.
- 3.2 Incapability is where the employee has received all necessary training to undertake the role but still cannot achieve a satisfactory level of performance. Poor performance could be as a result of the following;
- Any unreasonable expectations
 - Lack of training/further training needs
 - Lack of skills
 - Working environment impacting adversely on the employee
 - Any health or personal issue that may be impacting on the employee
- 3.3 If the employee fails to reach the required standard of performance as a result of carelessness, negligence or lack of effort, this will be treated under the disciplinary policy. HR advice should be taken as appropriate.
- 3.4 This policy applies to all levels of directly employed staff, including fixed term employees. It does not include contractors or agency staff.
- 3.5 The policy should also be followed for Medical Staff on any Medical or Dental contract. However *Maintaining High Professional Standards within the NHS* should also be referred to when this policy is applied to Medical Staff. It is advised that HR advice is taken.

4. POLICY

GUIDING PRINCIPLES

- 4.1 This policy should be used when an employee's performance has been identified as falling below an acceptable level. Its purpose is to provide a framework for resolving the issue, ideally through the improvement of the employee's performance
- 4.2 Employees are responsible for being proactive in achieving a satisfactory performance which should include regular communication with their line manager, attending and requesting training and ensuring they have all the necessary skills to perform the duties expected of them.
- 4.3 Before this procedure is engaged, the employee should receive feedback from his/her manager setting out the concerns about his/her performance. Informal discussions should already have taken place between the employee and his/her manager about how his/her performance can be improved.
- 4.4 This procedure is designed to be used when such informal discussions do not lead to the employee improving his/her performance to an acceptable level.
- 4.5 Where an employee's poor performance is believed to be the result of deliberate negligence, or where serious errors have been made by him/her to the detriment of the organisation, the organisation may decide to use its Disciplinary Policy instead.
- 4.6 A written record of all meetings conducted under this procedure will be made, either by the person holding the meeting or by an additional person arranged by the organisation to take notes.

5. PROCEDURE

STAGE 1 - INFORMAL

- 5.1 The employee's manager will inform the employee of the nature of the problem and confirm this in writing. The employee will be invited to an informal meeting to discuss concerns regarding performance. The meeting will be conducted by the employee's manager.
- 5.2 Following discussion of the problem, the manager may choose to:
 - take no further action;
 - refer the matter for investigation under the disciplinary procedure; or

- issue guidance to the employee on what he/she needs to do to improve his/her performance – a reasonable timeframe for improvement should be set (as a guide 4-6 weeks may be appropriate) with agreed meetings during this period if required.
- 5.3 The outcome of the Stage 1 meeting should be confirmed in writing within 7 calendar days.

STAGE 2 – FORMAL - IMPLEMENTATION

- 5.4 Where Stage 1 does not lead to a satisfactory improvement in the employee's performance, the employee will be invited to a formal performance review meeting. This should be confirmed in writing and the employee given the right to be accompanied to the meeting by a work colleague or Trade Union representative.
- 5.5 The purpose of a performance review meeting is to discuss the employee's performance and decide what measures should be taken, with a view to securing the required improvement in the employee's performance. The meeting will be conducted by the employee's manager. Where it is considered appropriate by the organisation, a member of the HR department may also be present.
- 5.6 The employee will be given an opportunity to respond to any comments/observations around his/her performance and to put forward any explanation for the matters identified by the manager as amounting to poor performance.
- 5.7 The outcome of the meeting may be:
- a decision to take no further action;
 - a decision to refer the matter for investigation under the disciplinary procedure; or
 - the implementation of a formal *Performance Improvement Programme*, designed to bring the employee's performance up to an acceptable level.
- 5.8 Where a formal *Performance Improvement Programme* is implemented, this should include:
- clear evidence of the issues and the improvement required
 - timescales for improvement (as a guide, 6 to 12 weeks may be appropriate)
 - any additional support or training that may be required to enable improvement to be made
 - the consequences of a lack of improvement should be clearly communicated to the employee
- 5.9 The outcome of the Stage 2 meeting/review should be confirmed in writing within 7 calendar days.

STAGE 3 – FORMAL - REVIEW

- 5.11 A formal review meeting should be arranged to take place at the end of the timescale for review outlined at Stage 2. This review meeting will seek to look at:
- A. What improvements have been made;
 - Some improvement, which would warrant a further extension to enable completion, or;
 - the employee has completed and achieved all targets/improvements set out in the Performance Improvement Programme at Stage 2 and no further action is required.
 - B. If there has been no improvement in the performance of the employee this should be considered at a Contractual Review Meeting (Disciplinary Hearing), which would consider the continuation of the employee's contract of employment with the organisation.
- 5.12 If the Performance Improvement Programme has not led to sufficient improvement in the employee's performance within the timescale set at Stage 2 of the procedure and it is not anticipated that achievement would be reached within a further reasonable timescale (4 weeks), the employee will be invited to attend a Contractual Review Meeting, to consider the performance issues as they currently stand, and whether continued employment can be sustained.
- 5.13 The manager will be required to compile a report detailing all aspects of the performance issue, including the performance improvement programme, review meeting notes and progress reports, all support and training offered/undertaken etc.
- 5.14 The hearing notification letter will set out the respects in which the employee's manager believes that the employee's performance still falls short of an acceptable standard and a copy of the report will be sent to the employee.
- 5.15 Contractual Review Meeting arrangements will be made in accordance with timescales and process outlined within the Disciplinary Policy, Disciplinary Hearing 6.12 through to 6.19.
- 5.16 The employee will be entitled to be accompanied by a work colleague a trade union representative.
- 5.17 The employee will have the right of appeal against any outcome of the Contractual Review Meeting, in line with the Disciplinary Policy.