

MANAGING PERFORMANCE POLICY AND PROCEDURE

Policy Schedule		
Policy owner and lead	People Services: HR Policy Manager	
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Version Control

The first draft of the policy should be labelled '**Draft version 0.1**' and dated. Further draft versions should be labelled '**Draft version 0.2, 0.3**' etc and dated.

The final original version of the policy may be labelled '**Final Version 1.0**' and dated. This version will be submitted for the appropriate approval at EAC.

If amendments are necessary following EAC then subsequent versions of the policy may be labelled '**Draft Version 1.1, 1.2**' whilst being drafted and reviewed and the version re-submitted for approval should be labelled '**Final Version 2.0**' and dated.

If revisions are required subsequently and following implementation of policy, version should be labelled as follows –

Example

Final Version 2.1 – reason for change (e.g. legal update)

Version Control

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Version Control

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POLICY STATEMENT

Slough Borough Council endeavors to ensure that its employees deliver an acceptable standard of performance for their role. Effective performance is not just *what we do* but also *how we*, as individuals, contribute to service improvements for the benefit of Slough residents. This policy aims to encourage employees to improve performance wherever possible and provide help and support to restore and maintain effective contribution. However poor performance can ultimately result in dismissal.

1. SCOPE

- 1.1 This policy and procedure applies to all employees at Slough Borough Council. It excludes employees who are within their probationary period of service and Apprentices (refer to the Probationary Procedure and Apprentices Performance Framework). It also excludes the Chief Executive, Appointed S151 Officer and the Monitoring Officer and all staff employed under JNC Conditions for Chief Officers, who are covered by separate procedures. This policy does not apply to school-based staff who are under the control of Governing Bodies or to Volunteers and Agency workers.
- 1.2 This policy should be used where an employee's performance is unacceptable. The process provides a fair and consistent framework to improve the employee's performance to a satisfactory level.
- 1.3 In circumstances where there are wilful misconduct issues or a neglect of duty then the Disciplinary Policy and Procedure will be applied. Where poor performance is due to ill health, the Managing Sickness Absence Policy and Procedure will be applied.

2. KEY PRINCIPLES

- 2.1 Confidentiality must be maintained in relation to information about sickness and absence in compliance with the General Data Protection Regulations and Data Protection Act 2018. Inappropriate access or disclosure of employee data constitutes a data breach. Any breach of the Council's Data Protection and Privacy Policy must be reported and may result in action being taken under the Council's Disciplinary Policy and Procedure. Personal data breaches which are likely to risk the rights and freedoms of others will need to be reported to the Information Commissioner's Office without undue delay or within 72 hours of becoming aware of the breach.
- 2.2 Audio or visual recordings at any stage of the managing performance procedure will not be permitted unless requested and agreed as a reasonable adjustment under the Equality Act 2010.

3. CURRENT LEGISLATION

- 3.1 ACAS Code for Disciplinary and Dismissal procedures and the Equality Act 2010.

4. FITNESS TO PRACTICE

- 4.1 Where a post requires registration with a Professional Body, for example Health & Care Professions Council (HCPC), Slough Borough Council are required to comply with the rules relating to fitness to practice proceedings in respect of those workers in scope. Managers should refer to the relevant Professional Body for details.

5. ROLES AND RESPONSIBILITIES

Employees' responsibilities

- 5.1 Employees are expected to deliver the performance standards required from them as outlined in their job descriptions and performance objectives in a timely and professional manner in order to fulfil their role and to ensure the needs of the service are met. Performance objectives are agreed at annual Performance Review meetings and reviewed every 4-6 weeks as a minimum at 1:1/supervision review meetings.
- 5.2 Employees will identify and discuss with their manager any support they require in order to meet the performance standards/objectives.
- 5.3 They will make themselves available for meetings with management to discuss their performance and performance concerns and any improvements that are required.
- 5.4 Employees are encouraged to share with their manager any domestic, personal or work-related problems that may be impacting on their performance so that this can be taken into account and appropriate support provided and action taken. Where appropriate the employee should be reminded of the Employee Assistance Service <http://insite/people/health-and-wellbeing/employee-assistance-programme/>. Any information discussed will be treated in strictest confidence by the manager.

Line managers' responsibilities

- 5.5 Managers will ensure their employees are aware of the performance standards and behaviours expected of them and the consequences of failing to meet these standards. This will be through local and corporate inductions, the Annual Performance Review process and in regular 1:1/supervision review meetings. See Appendix D, template for 1:1 and supervisions.
- 5.6 Performance issues must be dealt with promptly and in accordance with this policy and procedure. An employee's performance issues will usually be addressed

through informal action in the first instance within 1:1 performance review/supervision meetings. However, in cases of serious under performance the matter may be progressed to the formal stages of this procedure.

5.7 Evidence that may be used by the manager to illustrate performance concerns includes:-

- examples of the employees' work
- statements or complaints from other managers/colleagues/customers/service users
- performance targets that have not been met.

5.8 Managers will ensure there are sound and demonstrable reasons to progress through the informal and formal stages of this procedure.

5.9 Managers will investigate possible reasons for the employees' inadequate/poor performance. They will deal sensitively with situations where an employee has disclosed personal problems that may be contributing to their performance and seek advice from the Human Resources Business Partnering Team and/or Occupational Health as appropriate. They will ensure any information provided by the employee is treated in strictest confidence.

5.10 The Equality Act 2010 requires organisations to make reasonable adjustments for disabled employees where those reasonable adjustments would enable the employee to fulfil their role. A disabled person for these purposes is defined as "One who has a physical or mental impairment which has a substantial and long-term adverse effect on their ability to carry out normal day-to-day activities" (taken from the ACAS website). Reasonable adjustments may be many and varied and could include changes to terms and conditions (such as hours, location, etc), re-deployment, making changes to physical environment, the provision of specialist equipment and tools, etc.

5.11 Occupational health will be able to advise in specific cases what reasonable adjustments are required.

6. RIGHT TO BE ACCOMPANIED

6.1 The employee may be accompanied by a work colleague or trade union representative at any formal meetings held under this policy and procedure. The Council will consider a request from an employee to be accompanied by a person other than a Trade Union official or work colleague, for example if they have a disability they may be permitted to be accompanied by their support worker. Only one representative may attend the meeting.

6.2 In the event of a representative being unable to attend on the original date proposed, a convenient date for all parties will be arranged within five working days. The representative must make all reasonable attempts to attend the second date

confirmed as any further postponement may not be agreed depending on the circumstances and reason for postponement.

- 6.3 The representative may address the formal meeting and confer with the employee, but not answer questions on their behalf. Reasonable time will be allowed, if required, for the employee and their representative to confer privately, either within the formal meeting or outside.

7. MANAGING PERFORMANCE PROCEDURE **INFORMAL ACTION**

- 7.1 Every reasonable effort will be made to support the employee to improve their performance before formal action under this procedure is taken. Please refer to Appendix A Flowchart for Managing Performance and Appendix B Guidance to Managing Performance.

- 7.2 The manager should meet with the employee as promptly as possible after identifying performance issues and implement a performance improvement plan (PIP), see Appendix D, that covers the following:-

- confirm the details of the performance issues
- confirm the performance standards required
- set performance improvement targets
- agree any learning and support required
- the timeframe for the improvements to be evidenced (providing sufficient enough time for the improvements to be made)
- a record should be kept of what is discussed and agreed.

- 7.3 The employee should be advised that if their performance does not improve within the agreed timeframe the matter will be progressed to the formal stages of this procedure.

8. FORMAL ACTION

There are three stages under the formal procedure. These stages are detailed below. The formal procedure will be used for cases of serious under performance or where the informal procedure has not resulted in improvement. In exceptional cases (for example relating to safeguarding or where poor performance is resulting in our services to customers being placed in jeopardy) managers will be able to progress the matter to the third and final stage of this procedure.

8.1 Stage One – Performance Review Meeting

The employee will be asked in writing by their line manager to attend a Stage One Performance Review Meeting with them and will be;

- given a minimum of five working days' notice (or less by mutual consent)
- informed of their right to be accompanied

- advised of the purpose of the meeting
- given a copy of this policy and procedure

These timeframes are subject to reasonable adjustment for an employee with a disability.

- 8.2 The line manager will make copies of all documentation to be relied on in the meeting available to the employee and their representative at least three working days before the meeting. If the employee intends to bring a representative or fellow worker/support worker they must notify the manager. If the employee intends to present any documents, these must be given to the line manager at least three working days before the meeting.
- 8.3 The line manager will present their information and the employee should be allowed to respond, raise points about any documents and information presented and should also be given the opportunity to ask questions.
- 8.4 At the meeting the line manager will;
- set out the required standards that they believe have not been met and go through the evidence of this
 - establish any likely reasons for poor performance including any reasons why any measures taken have not led to the required improvement
 - identify whether there are any further measures such as additional training, which may improve performance
 - discuss targets for improvement and confirm a reasonable timeframe for review (not normally more than 3 months), explaining the consequences of failure to improve
 - confirm that if there is any further deterioration in performance or additional serious concerns during the review period, the matter may be progressed to the second stage.
- 8.5 The line manager must have considered any reasonable adjustments or medical interventions proposed to enable the employee to attain acceptable levels of performance and be able to fully explain their decision making process in respect of this.
- 8.6 The employee and their representative should make every effort to attend the formal meeting. If the employee is unable to attend, the formal meeting will be rearranged. If the employee continues to be unavailable to attend on the further date offered, the line manager will make a decision on the evidence available. The employee's representative may attend the formal meeting in such circumstances and will be allowed the opportunity to present the employee's case in the employee's absence. The employee will also be allowed to make written submissions in such a situation.
- 8.7 At the conclusion of the meeting and within 5 working days following the meeting the line manager will confirm their decision in writing and the actions required to improve the situation. If the manager considers having fully reviewed all the information available that the employees' performance is not satisfactory and/or has not improved sufficiently through informal action then the employee will be given a **First Written Warning**.

- 8.8 The warning will confirm:-
- the performance standards required
 - performance improvement targets
 - any further training and support required
 - the period of review and timeframe for the improvements to be evidenced
 - the consequences of failing to improve
 - confirm that if there is any further deterioration in performance or additional serious concerns during the review period, the matter may be progressed to the second stage.
- 8.9 The written warning will also advise the employee of their right of appeal to their Service Lead within 5 working days of the date of the written warning. The Service Lead will undertake a paper based review of the appeal grounds and basis for the decision to issue a First Written Warning and confirm the outcome of the appeal to the employee in writing within 15 working days.
- 8.10 At the expiry of the review period the line manager will write to the employee to confirm either;
- they are satisfied with the employees' performance and no further action will be taken
 - they are not satisfied that the employees' performance has met the required standards and the matter will be progressed to the Second Performance Review Meeting
 - there has been good improvement but not sufficient progress and therefore the review period is extended to a maximum of 3 months.
- 8.11 The warning will be retained on the employee's personal file but will normally only remain active for 6 months from the end of the review period after which it will be disregarded for the purposes of the future actions taken under this policy. If there are further performance issues in this period then matters can be progressed further under this procedure.

Stage Two – Formal Meeting

- 8.12 A Stage Two Formal Performance Review Meeting will be required when the improvements specified in the Stage One Performance Review Meeting have not been achieved by the employee in the review period. The employee will be asked in writing by their line manager to attend a Stage Two Formal Meeting and will be given a minimum of five working days' notice (or less by mutual consent) and will be informed of their right to be accompanied. These timeframes are subject to reasonable adjustment for an employee with a disability.
- 8.13 The meeting will follow the same format as the Stage One Performance Review Meeting. See 8.1 above. The meeting will be chaired by the line manager.
- 8.14 The employee and their representative should make every effort to attend the formal meeting. If the employee is unable to attend, the formal meeting may be rearranged.

If the employee continues to be unavailable to attend on the further date offered, the line manager may conclude that a decision will be made on the evidence available. The employee's representative may attend the formal meeting in such circumstances and will be allowed the opportunity to present the employee's case. The employee will also be allowed to make written submissions in such a situation.

- 8.15 At the conclusion of the meeting and within 5 working days following the meeting the line manager will confirm their decision in writing and the actions required to improve the situation. If the manager considers having fully reviewed all the information available that the employees' performance is not satisfactory and/or has not improved sufficiently then the employee will be given a **Final Written Warning**.
- 8.16 The warning will confirm:-
- the performance standards required
 - performance improvement targets
 - any further training and support required
 - the period of review and timeframe for the improvements to be evidenced
 - the consequences of failing to improve
 - confirm that if there is any further deterioration in performance or additional serious concerns during the review period, the matter may be progressed to the final stage.
- 8.17 At the expiry of the review period the line manager will write to the employee to confirm either;
- they are satisfied with the employees' performance and no further action will be taken
 - they are not satisfied that the employees' performance has met the required standards and the matter will be progressed to stage three, Performance Review Hearing
 - there has been good improvement but not sufficient progress and therefore the review period is extended.
- 8.18 The warning will be retained on the employee's personal file but will normally only remain active for 12 months from the end of the review period after which it will be disregarded for the purposes of the future actions taken under this policy.

Stage Three - Performance Review Hearing (Dismissal Stage)

- 8.19 A Stage Three Performance Review Hearing will be required when the improvements specified in the Stage Two Meeting have not been achieved by the employee in the review period. The employee will be asked in writing by their line manager to attend a Stage Three Performance Review Hearing and will be given a minimum of five working days' notice (or less by mutual consent) and will be informed of their right to be accompanied. These timeframes are subject to reasonable adjustment for an employee with a disability.
- 8.20 The employee and their representative should make every effort to attend the formal meeting. If the employee is unable to attend, the formal meeting may be rearranged.

If the employee continues to be unavailable to attend on the further date offered, the manager may conclude that a decision will be made on the evidence available. The employee's representative may attend the formal meeting in such circumstances and will be allowed the opportunity to present the employee's case. The employee will also be allowed to make written submissions in such a situation.

- 8.21 The Hearing panel will normally consist of three officers;
- Service Lead (Service Director if the employee is a Service Lead)
 - A Manager (level 8 and above)
 - A Human Resources representative
- 8.22 The line manager will present the management case for dismissal to the Hearing Panel.
- 8.23 The employee will be allowed to respond, raise points about any documents and information presented and will also be given reasonable opportunity to ask questions. If the employee intends to present any documents, these must be given to the chair of the panel at least three working days before the meeting. If the employee intends to bring a representative or fellow worker/support worker they must notify the chair of the panel. These timeframes are subject to reasonable adjustment for an employee with a disability.
- 8.24 When all the evidence has been heard and explanations given, parties will withdraw and the panel will decide on the outcome of the formal meeting. The panel should take account of all the information presented, actions taken in any previous similar case, the explanations given by the employee and/or the employee's representative and whether dismissal is reasonable in the circumstances.
- 8.25 The chair may also adjourn the formal meeting where they feel further investigation into the matter is warranted before reaching a decision.
- 8.26 The panel, depending on the circumstances of the case, will decide on one of the following actions:-
- That the desired performance standards have been met and there is no further action
 - Give a further review period specifying the required levels of performance improvement, timescales and supporting actions (which if not met will result in the Hearing being reconvened)
 - Terminate the employee's contract of employment on the grounds of unacceptable performance.
- 8.27 Where it is decided to terminate the employee's contract of employment, the employee will be given notice in accordance with the contract of employment. As the panel have decided that the individual should not remain in their post, they will be paid in lieu of notice.

8.28 The decision of the panel should be communicated to the employee in person at the conclusion of the meeting where possible and confirmed in writing by the chair within five working days of the decision.

9. APPEAL

9.1 Appeals against a final written warning or dismissal must be made in writing to the employee's Service Lead within five working days of written confirmation of the formal meeting outcome. This timescale can be extended by mutual agreement.

9.2 An Appeal Hearing is not a re-hearing but will focus on the grounds for appeal provided by the employee.

9.3 The letter from the employee should state one or more of the following grounds with detail to support:-

- the decision was based on evidence that did not support the conclusion
- a failure to follow procedure had a material effect on the decision
- the action taken was too severe or inconsistent with previous decisions
- new relevant evidence has become available

9.4 Upon receipt of an appeal, an appeal hearing will be convened by the chair of the appeal panel to hear the details of the appeal. The appeal hearing will normally be held within 15 working days following receipt of the written appeal. The employee has a right to be accompanied.

9.5 Appeals will usually be heard by:-

- A Service Lead from a different Directorate (Service Director if appeal is against a dismissal)
- Manager (L8 and above) independent from section or service concerned
- HR representative

9.6 The chair of the appeal hearing will convey their decision to the employee at the conclusion of the hearing where possible. The decision at the appeal is final and will be confirmed in writing, usually within five working days. The decision on appeal is final and there is no further right of appeal.

10. REDEPLOYMENT

10.1 At all stages of the formal procedure the line manager may agree to consider redeployment of the employee. Any possible redeployment will be handled under the Council's Redeployment Policy. The line manager will confirm the timeframe that will apply for the employee to secure redeployment and that failure to find alternative employment may lead to the employee's dismissal under this procedure.

Note - The detailed guidance for managers in respect of conducting 1:1 supervision meetings, tackling poor performance and how to conduct difficult conversation etc will be covered in the Appendices and not main body of this policy.

DRAFT