

# PERFORMANCE IMPROVEMENT POLICY AND PROCEDURE



## Purpose and Scope

This procedure is designed to help and encourage employees to achieve and maintain standards of job performance which are acceptable to the council. The aim is to ensure consistent and fair treatment for all.

This document:

- Supports both us and you to bring about positive changes in work performance and attitude, when needed, and,
- Explains how we will deal with instances of performance that fall below our standards, in a fair and consistent way.

It applies to all staff following successful completion of a probationary period, whether full time, part time or temporary. It does not apply to volunteers or agency staff.

## Principles

- Informal coaching and supervision will be considered to improve performance
- No formal warnings will be given until the causes of poor performance have been considered
- For formal warnings you will be advised of the nature of the poor performance and will be given the opportunity to state your case at a formal performance improvement meeting before any decision is made
- You will be provided, where appropriate, with copies of examples of poor performance in advance of a formal performance improvement meeting
- At all formal stages of the procedure you will have the right to be accompanied by a fellow employee or trade union representative
- You will have the right to appeal against any formal warnings issued

Where poor performance is believed to be the result of deliberate negligence, or where serious errors have been made to the detriment of the council, we may decide to use our disciplinary procedure instead.

#### Informal feedback

Before this procedure is engaged, you will receive feedback setting out the concerns about your performance and how it must improve. This procedure is designed to be used when such informal discussions do not lead to an improvement in your performance to an acceptable level.

#### Process

Where informal discussions have not led to an improvement in performance, the council will follow the following procedure.

#### First stage of formal procedure - first written warning

You will be invited to a formal meeting during which your performance will be discussed. The letter inviting you to attend will give examples of what the council considers to be poor performance; and advise you of your right to be accompanied at the meeting.

At the meeting, you will be given the opportunity to respond; the causes of the poor performance will be considered; and where training and development is appropriate this will be considered.

Having listened to your response, you may be issued with a first written warning for unsatisfactory performance if your performance does not meet acceptable standards. This will set out: -

- The performance problem
- The improvement that is required
- The timescales
- Any help that may be given
- The right of appeal
- You will be advised that it constitutes the first stage of the formal procedure and
- That the warning will remain on your file for [12] months

A record of the warning will be kept on your file.

If your performance improves to an acceptable level following the first meeting, the council will meet with you to confirm that your performance is now satisfactory. This will be confirmed in writing to you. Providing that satisfactory improvement is sustained, the

warning will be disregarded after [12] months for the purposes of providing an employment reference. However, the warning will be considered again if the poor performance re-starts.

#### Second stage of formal procedure - final written warning

If the concerns about your performance continue, you will be invited to a second formal meeting during which your performance will be discussed. The letter inviting you to attend will give examples of what the council considers to be poor performance; and advise you of your right to be accompanied at the meeting.

At the meeting, we will discuss the progress made following the first meeting and you will be given the opportunity to respond; and where training and development is appropriate this will be considered.

Having listened to your response, if your performance hasn't improved to a satisfactory level, you may be issued with a final written warning for unsatisfactory performance. This will set out: -

- The performance problem
- The improvement that is required
- The timescale
- Any help that may be given
- The right of appeal
- That the warning will remain on your file for [12] months
- Advise you that it constitutes the final written warning and will also warn that failure to improve may lead to dismissal

A record of the warning will be kept on your file.

If your performance improves to acceptable level following the second meeting, the council will meet with you to confirm that your performance is now satisfactory. This will be confirmed in writing to you. Providing that satisfactory improvement is sustained, the warning will be disregarded after [12] months for the purposes of providing an employment reference. However, the warning will be considered again if the poor performance re-starts.

#### Final stage of formal procedure – dismissal

If the concerns about your performance continue, you will be invited to a formal meeting during which your performance will be discussed. The letter inviting you to attend will give examples of what the council considers to be poor performance; and advise you of your right to be accompanied at the meeting. The letter will also advise you that dismissal may be considered.

At the meeting, we will discuss the progress made following the second meeting and you will be given the opportunity to respond. Having listened to your response, if your performance hasn't improved to a satisfactory level, dismissal will be considered, or where appropriate redeployment to an alternative role.

Any offer to redeploy you will be entirely at the council's discretion. Such an offer will be made only where there is a vacancy that we are confident you would be able to perform to a satisfactory level. The alternative job may be on different terms of employment. It will normally be offered only as an alternative to dismissal in circumstances in which we are satisfied that you should no longer be allowed to continue to work in your current role. While you will be free to refuse any offer of redeployment, the only alternative available will usually be dismissal.

If the council believes that there is no alternative role available and suitable for you, but that you have not met an acceptable standard of performance, we may decide to dismiss. Any dismissal will be with full notice or payment in lieu of notice.

If the decision to dismiss is taken, you will be provided in writing with;

- Reasons for dismissal
- The date on which the employment will terminate
- The right of appeal

### Appeals

If you wish to appeal against a formal warning or dismissal you must do so by writing to the Clerk within five working days. The Clerk will arrange for an appeal meeting to take place. Wherever possible, your appeal will be heard by a more senior officer or a subcommittee made up of councillors who have not previously been involved in the matter.

You have the right to be accompanied at the appeal meeting by either a work colleague or a trade union representative. At the appeal hearing, the decision to impose the sanction will be reviewed and you will be entitled to make representations about the appropriateness of that decision.

The outcome of the appeal will be confirmed to you in writing, explaining the grounds on which the decision was reached. The outcome of the appeal will be final.

### Rescheduled meetings

If you fail to attend a scheduled Performance Improvement Meeting without satisfactory reason, we will reschedule the meeting. We will advise you that if you do not attend the rescheduled meeting without a satisfactory reason, we reserve the right to make a decision in your absence. We will however confirm that if you do not wish to attend the hearing, you may send written representations, join the hearing by telephone or send a representative on your behalf.

## Right to be accompanied

You have the right to be accompanied by a work colleague or a Trade Union representative to all formal meetings in this procedure. The council will also consider requests to be accompanied to any investigation meetings.

A work colleague will be allowed time off to accompany you to the meeting and the council will support any work colleague who agrees to be a companion. A companion must feel able to agree to the request on the basis that they will not be treated to any detriment if they accept. However, the companion can decline a request.

It is your responsibility to ensure your companion is aware of the meeting arrangements and that they have any documentation in good time. If your chosen companion is not available at the time proposed for the meeting, you must provide us with alternative dates that you are both able to meet. These dates must be within the following five working days unless the council can agree to alternative arrangements.

If you and your representative are unable to meet with the council within a reasonable time, we will discuss alternative arrangements to enable you respond to the concerns. If we are unable to meet with you personally, this may mean that the council considers the concerns in your absence with your companion attending on your behalf or considering a written response.

## Confidentiality and data protection

We aim to deal with performance improvement matters sensitively and with respect for the privacy of the individuals involved. All staff must treat as confidential any information communicated to them in connection with a performance improvement matter.

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 council to take notes.

The council processes any personal data collected during the performance improvement procedure in accordance with its data protection policy and privacy notice as issued to our employees. Any data collected is held securely and accessed by, and disclosed to, individuals only for the purposes of completing the performance improvement procedure.

Inappropriate access or disclosure of employee data constitutes a data breach and should be reported in accordance with the organisation's data protection policy immediately. It may also constitute a disciplinary offence, which will be dealt with under the disciplinary procedure.

This is a non-contractual procedure which will be reviewed from time to time.

Date of policy: September

Policy version reference: v1 2023 Date for next review: May 2023

## Notes

This policy is designed to provide employers and employees with a consistent framework to improve performance. If performance does not improve to standards as reasonably expected by the council, this policy provides a procedure that can enable a fair dismissal. The procedure must be applied fairly and reasonably.

### 1. Scope

This policy does not apply to staff within their probationary period.

### 2. Reasonable adjustments

When managing performance, it may become apparent that an employee has a health condition that is covered by the Equality Act. You may need to ask consent from the member of staff to seek an Occupational Health (OH) report to better understand their health condition.

If the employee has a physical or mental impairment that has a 'substantial' and 'long-term' negative effect on their ability to do normal daily activities, the council will need to establish what adjustments may be required to support the employee in the workplace. OH will help you to understand what this could mean. The council will need to assess what changes can be reasonably made.

With regards to performance concerns, a reasonable adjustment could be to:

- allow an employee to work flexible hours to enable them overcome fatigue arising from their disability.
- reallocate minor duties because an employee has difficulty doing them because of a disability.
- Allow more time for an employee to complete a piece of work because of a disability.

Not considering making a reasonable adjustment to support an employee with a health condition covered by the Equality Act would amount to disability discrimination.

### 3. When to go formal

Day-to-day performance management is critical to ensure that you have a good understanding of the challenges a member of staff has, explore any training or support required, and provide positive and developmental feedback on performance.

When work isn't being done as you reasonably expect, it may be because there is a mismatched understanding, external difficulties that hinder performance, or a lack of skill or will. Until you have had that conversation, you may not know where the problem lies.

In the busy day-to-day work, there isn't always time to take a step back and reflect. Holding regular, monthly meetings with the staff member is important because it provides a space to

discuss and better understand what the challenges are. If things are not going as you would like, these regular meetings are an opportunity to review and clarify your expectations.

If this doesn't lead to improved performance, then you should explain the impact this is causing the council and emphasise the importance of what you need them to do. Using SMART objectives will give greater clarity on expectation (SMART - Specific, Measurable, Achievable, Realistic and Time-bound).

If this doesn't lead to improved performance, discuss the reasons and decide whether it is sufficiently serious to proceed to the formal stage.

Note: It is quite common for managers to spend a lot of time in the informal stages, providing coaching and support for extended periods of time and then becoming exasperated, wanting to dismiss, if performance doesn't improve. Irrespective of the time spent informally managing the situation, employers are expected to have used all the formal stages of the procedure before getting to the point of dismissal.

#### 4. How long is reasonable to wait before moving to the next formal stage?

This will depend on the nature of the improvement required. Some performance improvements can be made immediately (i.e. ensuring agendas are published with three full days' notice), whilst others may take longer (i.e. learning an accounts package to ensuring the budget is monitored and monthly reporting to the council).

#### 5. Avoid bullying allegations

It is understandable that an employee may feel very uncomfortable when performance concerns are discussed. It is not unusual for an employee to believe (or claim to believe) that they are being bullied, and possibly raise a grievance. This is more likely to happen if the performance concerns have been going on for some time and not addressed. If the employee raises a grievance, the formal performance management process should be paused whilst the grievance is addressed.

There are a few ways to help reduce the risk of bullying allegations: -

- Where possible, share your concerns with a peer and get another view on whether your expectations are reasonable (ensuring there is no breach of data protection);
- Make sure that any positive performance is recognised and communicated (preferably supported in writing);
- Ensure feedback is specific and not presented with emotional or subjective language;
- Ensure you have the evidence to support your concern before raising the concern (where relevant);
- Ensure negative feedback is not given in open plan; arrange a meeting when you will have time to discuss the issues;

- Plan what you intend to say when giving feedback and stick to it – having scripted bullet points will help you stick to the facts;
- Avoid raising concerns from third parties that you cannot substantiate;
- Where concerns are shared by others, encourage them to provide feedback directly (this is not appropriate if a more junior employee has voiced a concern)
- Be selective; where there are numerous concerns, focus on the most important ones and ‘park’ the less serious;

## Annual leave entitlement

Your paid leave entitlement is set out in your contract of employment. The basic leave entitlement for a full-time member of staff is 22 days per annum PLUS 2 extra statutory days in addition to 8 Bank holidays. Part time employees receive a pro-rated entitlement according to their hours of work.

## Working part-time

If your entitlement to Bank Holidays exceeds the number of days that fall on your normal working days (typically because you don’t work on Mondays) you will be able to take the excess as leave. If your entitlement to Bank Holidays is less than the number of Bank Holidays that fall on your normal working days, (typically because your normal working days include Mondays) then you can make up the difference by using your leave entitlement. With agreement from the Clerk (or the Council in the case of the Clerk), you may be able to work additional hours to make up the deficit or take unpaid leave.

## Leave year

The leave year runs from 1st April to 31st March. It is your responsibility to manage your leave in such a way that you are able to take it all during the leave year. Your annual leave entitlement will be pro-rated in your first and last year of employment with the council.

## Requesting leave

You should request leave from the Clerk (or the Council in the case of the Clerk), with as much notice as possible. This will allow the council to plan workloads. Before granting leave we will consider;

- The team’s workload,
- The need for office or team cover, and,



· Whether other staff have or are likely to ask for the same time off (e.g. a popular holiday time).

The council will balance your needs against the needs of other staff before agreeing to leave. If you take leave without such permission it will be treated as unauthorised absence and dealt with under the Disciplinary Procedure.

### Sickness during leave

If you become ill during a period of paid annual leave, you must comply with the requirements of the sickness reporting and certification procedure, if you wish to have this sickness period discounted from the period of paid leave taken. It is important that you contact the Clerk (or the Council in the case of the Clerk), on the first day of sickness and keep the council up to date during the period of sickness.

### Payment of annual leave

The council does not offer payment in lieu of leave entitlement unless you are leaving the council and have not taken leave entitlement that you have accrued at the time of leaving.

### Payment in lieu

If you leave during the course of a leave year, and cannot take any outstanding accrued leave before your last day, you will receive a payment in lieu of any outstanding accrued leave. In such a case, a calculation will be made of the amount of paid leave due to you, on a pro rata basis, for that part of the leave year up to the date of termination of the contract. Holiday pay will be based on your current rate of pay including any regular overtime.

If, however, you have taken more paid leave than is due by this calculation, then a deduction will be made from your salary payments for an amount at your basic daily rate for the days in question. Such a deduction will be deemed to be a contractually authorised deduction.

This is a non-contractual procedure which will be reviewed from time to time.

Date of policy: September 2023

Policy version reference: v1 2023 Date for next review: May 2023

### Notes

#### 1. Annual leave entitlement

The statutory minimum leave entitlement for full time workers is 20 days in addition to 8 Bank Holidays. This should be pro-rated for part time workers. If your Clerk works three full days a week, their entitlement will be 3/5ths of the full-time entitlement (i.e. 12 days leave in addition to 4.8 days Bank Holidays).

#### 2. Green Book terms

If the council adopts Green Book terms and conditions of employment, staff receive an additional 4 days entitlement after 5 years of continuous service. Furthermore, employees have an entitlement to two extra statutory days leave which may be taken on specific days, or added to the annual entitlement.

#### Public and Extra Statutory Holidays

Employees required to work on a public or extra statutory holiday shall, in addition to the normal pay for that day, be paid at plain time rate for all hours worked within their normal working hours for that day. In addition, at a later date, time off with pay shall be allowed as follows:

- Time worked less than half the normal working hours on that day – half day
- Time worked more than half the normal Working hours on that day – full day

#### 3. Carrying over leave

It is important that staff take their statutory annual leave in order to ensure the council complies with working time legislation. The council has a responsibility to support staff to take their annual leave. If the council offers leave entitlement in excess of the statutory minimum, you may wish to allow staff to carry over unused entitlement from one year to the next. The following text can therefore replace the relevant section above.

It will not normally be the case that employees are permitted to carry forward annual leave in to the next leave year but consideration will be given to any request to do on the ground of special circumstances.

#### 4. Rolled-up holiday pay

It is not permissible to "roll-up" holiday pay into basic pay, i.e. pay an employee a higher hourly, daily or weekly wage, part of which is designated as holiday pay, with the result that, when the employee goes on leave, they receive no pay.

#### 5. No normal working hours

If an employee does not have normal working hours, for example if the amount of work fluctuates from week to week, then the amount payable during statutory annual leave must be calculated as an average of the employee's actual pay during the 12 weeks that preceded the start of the leave period. If, during the preceding 12 weeks, there was one or more weeks during which the employee did no work (and hence received no pay), that week must be