

Performance Capability Policy and Procedure

Policy Purpose

The Council recognises that its success depends on the effective contributions from all colleagues. Partners, stakeholders and customers all have a right to expect high quality performance from Council colleagues, and colleagues have the right to expect appropriate support for the effective delivery of their job roles and continuing professional development.

This policy and procedure provides a framework for managing performance which falls below the expected performance standards of the job role, and the desired improvement has not been achieved through the Great Performance Conversations.

The overall aim of this policy is to provide a fair and consistent procedure to encourage and support colleagues, enable and improve performance and maintain the required performance standards.

Document Control			
Version No:	1. Date of Issue/ Implementation. 2. EIA date:	Author:	Brief Description of Change/Revision
1	TBC	Nyree Treece / Sarah Cook	Policy renamed Removal of probationary period Full review of the informal and formal stages of Capability procedure. Link to Great Performance Conversations framework
Date for review		June 2021.	

1. Application

1.1 This policy applies to all Council colleagues except:

- The Chief Executive and Chief Officers for whom there are separate provisions.
- Those employed under the delegated powers of Governing Bodies of Community, Voluntary Controlled Schools and Trust Schools. Governing Bodies of these schools are strongly urged to adopt this policy for non-teaching staff within their delegated powers.

1.2 This policy does not apply to:

- Managing performance issues which are a result of misconduct. In these cases the Disciplinary and Dismissals Policy should be used.
- Managing performance issues which arise during probation. In these cases the performance will be managed in accordance with the Probation Procedure.

2 Principles

2.1 This policy is appropriate to use when the desired improvement in performance has not been achieved during the Great Performance Conversation (GPC).

2.2 Great Performance Conversations are about:

- Enabling good performance through objective setting.
- Setting targets for improvement or for sustaining the level of improvement, providing appropriate supportive measures and reasonable adjustments, where applicable.
- Holding regular review meetings.
- Informal catch ups.
- Any other meetings that may take place during the GPC review cycle to discuss objectives/performance.

3. Roles and Responsibilities

3.1 Line managers are responsible for managing the performance of their colleagues. Before implementing this procedure managers must be able to demonstrate that colleagues have been given the opportunity and support to improve performance during the GPC review cycle. Human Resources will provide support and guidance to managers on the operation of the procedure. The roles and responsibilities of key stakeholders are summarised at Appendix 1.

3.2 This policy can be implemented at any time during the GPC review cycle. It is essential that performance issues are addressed as they arise. During the GPC review cycle managers should meet regularly with colleagues, particularly where under performance concerns have been identified. The GPC reviews allow managers and colleagues to determine where performance is not meeting the required standard, possible reasons for this and agree development measures to improve performance.

If, however, there is no improvement in performance, the colleague should be informed that the concerns about performance will now be considered under the informal stage one of the Performance Capability Procedure.

In exceptional circumstance, where a colleague's performance falls significantly below the acceptable standard and the actual or potential consequences are, or could be, extremely serious, the case may progress directly to the formal stage two or three. In these circumstances managers must seek the advice of Human Resources.

4. Performance Capability Procedure

4.1 The Capability Procedure consists of three stages.

Stage One	Informal Stage
Stage Two	Formal Stage
Stage Three	Performance Capability Hearing

4.2 Stage One - Informal Meeting and Monitoring

Where a colleague's performance has not sufficiently improved as a result of regular performance review monitoring during the GPC review cycle, the manager should implement the performance capability procedure and arrange an informal meeting with the colleague. The purpose of the meeting is to:

- review the support measures in place to assist in the achievement of the targets
- identify where performance is continuing to fall short of expectations,
- establish the cause for the continued underperformance,
- review targets and timelines for improvement,

4.3 During the meeting the manager and colleague will discuss the concerns regarding performance. An action plan for improvement will be developed and recorded in a personal development plan (PDP).

The action plan should include the following:

- Identify clear and specific objectives/performance standards that the colleague needs to meet to improve their performance.
- Any appropriate support that may be required that will assist the colleague to achieve the required standard.
- Timescales to review and monitor performance over a period of four to six weeks.
- A schedule of regular meetings during the informal monitoring review period to review progress. These meetings should only be cancelled in exceptional circumstances. Where a scheduled meeting is cancelled it must be rearranged as soon as possible.

4.4 The manager must confirm the outcomes of the informal performance capability review meeting within five working days of the meeting. This should include:

- the underperformance,
- the improvement required,
- any support required or training that will be provided to assist the colleague
- the timescale for achieving this improvement,
- a date for review (up to a maximum of six weeks),

Include a copy of the PDP and scheduled dates for meetings during the monitoring review period.

The manager must inform the colleague that if their performance does not improve to the standard as detailed in the action plan, they will move through to the next stage of the performance capability procedure. A formal performance capability meeting will be arranged, at which, a possible outcome could be a first or final written warning.

4.5 At the end of the review period, the manager should confirm the outcome in writing:

- the colleague has reached the expected standard and there is no longer cause for concern,
- there has been some improvement but not to the required standard overall, the colleague should be invited to a stage two meeting.
- there has been no improvement; the colleague should be invited to a stage two meeting.

5 Stage Two – Formal Performance Capability Meeting

- 5.1 Where a colleague continues to underperform after completion of stage one of the performance capability procedure, the manager must arrange a formal performance capability meeting. The purpose of the meeting is to:
- review the colleague's performance against the agreed performance standards.
 - consider any support measures that have been provided.
 - explore the possible causes for the underperformance.
 - consider any explanations put forward by the colleague in relation to their performance.
- 5.2 After careful consideration of all the information provided, the manager will decide on one of the following courses of action:
- If, based on the evidence, it is decided that the colleague is able or likely to be able to meet the expected standards of performance, and is likely to achieve a sustained improvement in performance, the manager may decide to extend the review period to allow the colleague to improve. In most circumstances any extension will not exceed six weeks.
 - If the manager does not consider that the performance has shown the required improvement and/or targets have not been fully met he/she may issue a first written warning; in some circumstances it may be appropriate to issue a final written warning.
 - A first written warning will remain live on a colleague's personal file for six months.
 - A final written warning will remain live on a colleague's personal file for nine months.
 - If a warning is issued the manager will set a further period of review and will review or revise the PDP as required; the review period will normally be between four to six weeks.
- 5.3 The details and outcome of the meeting must be confirmed in writing within five working days. The colleague must be informed that if they continue to underperform a performance capability hearing will be arranged at the end of the review period, at which a possible outcome is dismissal.
- 5.4 If the colleague's performance is considered to have met the required standard at the end of the review period, the colleague's performance will continue to be regularly monitored for the duration of the warning period.

- 5.5 If the performance of the colleague falls below the required standard again during the warning period the colleague will move to a stage three, Performance Capability Hearing.

6. Stage Three– Performance Capability Hearing

- 6.1 Where a colleague fails to meet the required standard of performance during the review period or continues to underperform during the period of the Warning period of six or nine months, the manager must arrange a Performance Capability Hearing. There are two possible outcomes of a performance Capability Hearing:

- If, based on the evidence provided by the manager and the colleague, it is decided that the colleague is able or likely to be able to meet the expected standards of performance and is likely to achieve a sustained improvement in performance, the chair may extend the review period for a period not to exceed 6 weeks.
- Dismissal.

7. Redeployment

- 7.1 When a colleague's performance is considered to be affected by their health, and all appropriate reasonable adjustments to the post have been considered and implemented, where applicable, or it has been identified that the colleague may be better suited to another post, redeployment can be considered in accordance with the Redeployment Policy. Where appropriate, redeployment can be considered at any stage of this policy and procedure. In such circumstances the Manager should be satisfied that any alternative role is likely to result in an improvement in performance and may seek the advice of Occupational Health in reaching any decision to redeploy.

8. Appeals

- 8.1 Colleagues have a right of appeal against the decision under all formal stages of this policy and procedure. All appeals will be conducted in accordance with the Appeals Policy.

9. Right to Be Accompanied

- 9.1 Colleagues have a right to be accompanied by a trade union representative or work colleague at all formal stages of the procedure. If the accompanying person is not available to attend at the proposed time, the colleague or their companion may request a reasonable alternative time within five working days. Exceptionally, the five day time limit may be extended by mutual agreement.

10. Support and guidance

- 10.1 Guidance, supportive information and documentation are available at <https://iderby.derby.gov.uk/my-development/performance-managementfree-stuff/performance-management/capability/>

