

## PERSONNEL COMMITTEE – 3RD OCTOBER 2018

### Report of the Head of Strategic Support

#### Part A

#### ITEM 6 MANAGING EMPLOYEE PERFORMANCE NJC AND JNC POLICIES & PROCEDURES

##### Purpose of the Report

To gain approval by the Personnel Committee to implement revised Managing Employee Performance Policies and Procedures (NJC and JNC Grade) and a revised Employee Performance Guidance document.

##### Recommendation

That the Personnel Committee agree to the implementation of revised Managing Employee Performance Policies and Procedures (NJC and JNC Grade) and a revised Employee Performance Guidance document.

##### Reason

To outline the process in relation to employee performance for NJC and JNC employees and the additional process in relation to the Council's 3 Statutory Officers (Chief Executive, Strategic Director of Corporate Services and Head of Strategic Support).

##### Policy Justification and Previous Decisions

The Managing Employee Performance Policies and Procedures (NJC and JNC Grade) was agreed at SMT on 20th June 2018 and JMTUM on 19th July 2018. The current Capability Policy and Procedure and Guidance documents were agreed on 1st October 2010.

##### Implementation Timetable including Future Decisions

It is recommended that the Managing Employee Performance Policies and Procedures (NJC and JNC Grade) and the Disciplinary Guidance be published on the intranet following approval by Personnel Committee. Following a presentation to Heads of Service, mandatory training sessions will also be delivered to all managers.

##### Report Implications

The following implications have been identified for this report.

##### *Financial Implications*

There are no immediate financial implications arising from this decision.

##### *Risk Management*

There are no specific risks associated with this decision.

Background Papers: none

Appendices: Annex A - NJC Managing Employee Performance Policy and Procedure  
Annex B - JNC Managing Employee Performance Policy and Procedure  
Annex C - Managing Employee Performance Guidance Document  
Annex D – Employee Performance Flowcharts

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## Part B

### Background

1. The Council's People Strategy 2017 to 2020 includes an action to review the current Personal Review process in 2019. In preparation for this review, HR has worked with the members of CMT and the Learning and Organisational Development Coordinator to consider how the current process works and how it links with the HR Capability Policies and Procedures. Consideration has also been given to feedback from 2017 IIP interviews, the results of the last staff survey and HR statistical casework information.
2. Based upon all of the above, the NJC Capability Policy and Procedure has been changed significantly and was agreed by SMT on 20th June 2018. Principles relating to the review of the process had previously been agreed by SMT in July 2017. It was also necessary to design a new JNC Capability/Managing Employee Performance Policy and Procedure following advice from the LGA. The revised process mirrors that of the JNC Disciplinary Policy and Procedure which was agreed at Personnel Committee in June 2018.

### **NJC Managing Employee Performance Policy and Procedure**

3. In order to compare the current and proposed processes, within the NJC Managing Employee Performance Policy and Procedure, the key differences have been outlined in the table below:

<b>Current Policy and Procedure</b>	<b>Proposed Policy and Procedure</b>
This is called the Capability Policy and Procedure:	It is proposed that we amend this to the Managing Employee Performance Policy and Procedure:
The policy stands alone in managing unsatisfactory performance:	Will be used in conjunction with Performance Reviews and 1-2-1s:
The purpose of the policy is for an employee to achieve an acceptable level of performance:	The purpose of the amended policy is for the employee to sustain an acceptable level of performance:
Additional factors include Capability issues and Disability plus sickness absence during a review process.	Has a whole section on Medical or Disability Related Performance.
Acknowledges that the Capability Policy and Procedure may need to be suspended if a grievance or complaint is raised against the	Provides advice about Counter Complaints, recognising that managers will not be regarded as demonstrating unreasonable behaviour unless they have acted

<p>manager of Bullying and Harassment:</p>	<p>inappropriately. This is in line with the Council's other key Policies and Procedures.</p> <p>This policy and procedure also includes advice about implementing improvement plans and outlines when and how monitoring periods should be implemented.</p>
<p><b>Informal Stage</b></p> <p>The informal stage guides managers in defining the shortfall in performance and supporting employees to meet the required standard:</p>	<p><b>Stage 1 Informal Stage</b></p> <p>This stage also clarifies expectations and supports employees to consistently reach a satisfactory level.</p> <p>Greater emphasis is put on resolving issues at this stage.</p>
<p><b>Formal Procedure Stage 1</b></p> <p>The formal procedure has 2 stages. Stage 1 includes a formal meeting with the line manager and an agreed improvement plan.</p> <p>If the required improvement hasn't been reached then a 1<sup>st</sup> formal hearing is arranged.</p>	<p><b>Stage 2 Formal Procedure</b></p> <p>Failure to sustain an improvement in performance and failure to fully engage with the process have been introduced as additional reasons to move onto a formal process.</p> <p>A formal meeting is held with the manager and the manager's manager. The status of this meeting more closely mirrors a formal meeting with the line manager. However, the manager's manager is involved to ensure that the employee has received a reasonably comprehensive level of support to improve, before moving to a formal hearing.</p> <p>Dependant on the decision, performance should continue to be monitored for 12 months:</p>
	<p>A further objective intervention is introduced at this stage. In line with the Council's other key policies and procedures, the requirement to seek the agreement of an objective</p>

<p style="text-align: center;"><b>Formal Procedure Stage 2</b></p> <p>Stage 2 of the formal process is a further hearing which could include a decision to dismiss. The employee will also have a right of appeal at this stage.</p>	<p>decision maker before proceeding to a hearing has been introduced.</p> <p><b>Stage 3 Formal Procedure</b></p> <p>Includes a formal hearing where dismissal is a possible outcome.</p> <p>The employee will have a right of appeal at this stage.</p>
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### **JNC Managing Employee Performance Policy and Procedure**

4. The stages within this draft policy and procedure, closely resemble the stages within the recently agreed Chief Officers Disciplinary Policy and Procedure. The stages are summarised below and a copy of the draft policy and procedure is attached as a Annex B.:
- **Stage 1**, A senior manager will meet with the employee to identify the shortfall in performance and provide support mechanisms to help the employee to improve.
  - **Stage 2**, a formal meeting, with a right of representation and a further improvement period.
  - **Stage 3**, a hearing at either officer or member level dependant on the employee's role.
  - **A Review Meeting of the Panel**, Monitoring performance for a 12 month period or dismissal are possible outcomes of this meeting.
  - **Consult with Cabinet Members**, the Chief Executive has to provide cabinet members with the name of the employee who has been dismissed and deal with any objections to this decision.
  - **Appeal**, the employee has a right of appeal in line with the Council's Appeal Policy and Procedure.



## Managing Employee Performance Policy and Procedure

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## 1 Information about this Policy and Procedure

- 1.1 Managers should use this policy and procedure in conjunction with regular individual meetings with their staff, including Performance Reviews and 121s. This procedure should be adopted if the manager has concerns about an employee's overall performance, e.g. the quality/quantity of their work generally or if there are significant aspects of the job that the member of staff needs targeted support in order to bring their performance up to the required standard.
- 1.2 The policy and procedure should be read in conjunction with the supporting guidance document and toolkit, which provide additional details and template documentation to assist managers in the application of this policy.
- 1.3 The Council's commitment to equality of opportunity will be observed at all times during the operation of this policy and procedure.
- 1.4 All employees have a contractual responsibility to achieve a satisfactory level of performance at work. Responsibility is also placed on managers to ensure that appropriate support is given to their employees to help them to achieve this satisfactory level.

## 2 Scope

- 2.1 This policy applies to all employees of Charnwood Borough Council except for:
- Chief Officers, to which separate arrangements apply;
  - Employees in their probation period, during which the Probation Policy and Procedure will apply;
  - Workers engaged under a casual contract for services.

## 3 Purpose

- 3.1 The Council aims to recruit, develop, support and maintain a high-performing and effective workforce. It is the responsibility of all managers to identify and take steps to address under performance issues promptly and appropriately as a matter of day to day management.
- 3.2 The purpose of the Managing Employee Performance Policy and Procedure is to encourage and support employees to perform at the required standards.
- 3.3 Managers should provide the employee with reasonable assistance to improve. However, the Council cannot continue the employment of an employee in their post if an acceptable level of performance cannot be sustained.

## 4 Definition

- 4.1 The Managing Employee Performance Policy and Procedure will apply where an employee is unable to perform the duties of their job to the required standard. This may be connected with the employee not having the necessary skill, knowledge, aptitude, capability, competencies or motivation to do their best.
- 4.2 If the employee has the ability to perform the duties of their job to at least the required standard but deliberately chooses not to do so, or it becomes apparent that the employee has chosen to adopt a negligent approach, this should be dealt with in accordance with the Disciplinary Policy and Procedure.

## 5 Roles & Responsibilities

<b>Line Managers</b>	To clarify expectations, set realistic and achievable targets, monitor performance, provide honest constructive feedback and effective managerial support and encouragement. If an under performance issue is identified, the manager should apply the procedure.
<b>Line Manager's Manager or Senior Manager</b>	To support and advise the line manager. To manage the Formal Employee Performance Meeting and make the final decision about the outcome of that meeting.

<b>Employees</b>	Employees have a contractual responsibility to work to the required standard, achieving a level of performance which is prescribed by the Council.
<b>HR Services</b>	HR Services will provide advice, coaching and support to managers on the application of the Policy and Procedure. HR will also act as panel members at hearings.
<b>Chair of the Hearing Panel</b>	The Chair of the panel will manage the hearing and notify the employee of the decision. They will also normally present the case if the employee exercises their right to appeal against that decision.
<b>Panel Members</b>	Will support the Chair of the panel and express a view on whether the case is founded and make recommendations about the appropriate outcome.
<b>Trade Union Representative or Work Colleague</b>	To support and advise, if appropriate, the employee. At a hearing this may include presenting the employee's case, summarising and conferring with the employee and responding to points on behalf of the employee. The Trade Union or work colleague cannot answer questions put directly to the employee.

## 5 Improvement Plans

- 5.1 Improvement Plans are used to document actions to be taken by the employee and the manager to improve the employee's performance. An Improvement Plan may be used at any time, regardless of whether formal performance procedures have been initiated.
- 5.2 An Improvement Plan will normally cover a period of 4 - 8 weeks, depending on the circumstances. Progress should be reviewed on a regular basis. At the end of the period covered by the Improvement Plan, this should be extended if appropriate, or a further Improvement Plan may be agreed if required. The manager and employee may review and agree amendments to the Improvement Plan together at any time.
- 5.3 It is expected that Improvement Plans will be put in place in a timely manner unless there is evidence which indicates that an Improvement Plan would not achieve the aim of supporting the employee to improve their performance to a consistently satisfactory standard.



## 6 Medical or Disability Related Employee Performance

6.1 Where the cause of an employee's under performance is connected with their state of health, a disability or long term condition, managers must give consideration to supportive measures and reasonable adjustments which could assist the employee to perform at the required standard. If any actions are agreed, following these discussions, they should be set out in writing by the manager and reviewed on a regular basis.

### 6.2 Medical Advice

Medical advice may be sought at any stage about an employee's state of health, with a view to implementing any measures which could assist the employee to improve their performance; this may be requested more than once if required. Managers should discuss the purpose of the referral in detail with the employee and subsequently discuss any medical reports received with the employee promptly. If any actions are agreed, following this referral, they should be set out in writing by the manager.

6.3 Employees are required to make every effort to attend appointments that have been arranged for them.

### 6.4 Management of Cases involving Disabilities and Long Term Conditions

Managers are expected to approach these cases in a positive and supportive manner, which may include making reasonable adjustments to the implementation of the procedure as appropriate for employees with a disability or long term condition.

### 6.5 Absence from Work

Where the employee's condition or state of health results in absence from work, it may be necessary to manage this in accordance with the Managing Attendance Policy and Procedure. Depending on the circumstances, management of performance and attendance issues may take place simultaneously or consecutively, as appropriate, but as the two procedures are initiated for different reasons they must be carefully managed.

In addition, if the employee is absent at all due to workplace stress, the manager should contact them and refer them to Occupational Health without delay. Referring employees, before they have met triggers within the Attendance Management Policy and Procedure, provides the manager with a better understanding of how they can support the employee through this process.

## 7 Further Information about implementing this Policy and Procedure

### 7.1 Counter Complaints

Managers are responsible for appropriately managing an employee's job performance. Carrying out this function in a supportive, fair, firm and consistent manner does not constitute unacceptable behaviour, although it is recognised that some staff may feel stressed or anxious whilst the procedures are ongoing. The aim of this policy is that managers and employees work closely and cooperatively together to improve the employee's performance at work.

Managers who are using Council procedures to address an employee's performance, attendance or conduct will not be regarded as demonstrating unacceptable behaviour unless there is evidence to show that they have acted inappropriately. Where a complaint is received from an employee against their manager and the complaint is solely or largely related to the commencement of these procedures, the manager's manager will meet with the complainant to discuss their concerns. The complaint will only be investigated further if evidence is provided which suggests that the manager has acted inappropriately or the concerns raised are not a consequence of the instigation of these procedures.

### 7.2 Alternative Work

Where it is agreed by both the manager and the employee that suitable alternative employment would be an option to resolve the situation at any stage of the procedure, the manager will provide a reasonable level of support to help the employee gain alternative employment. This support may include coaching, short training sessions and or support in completing job applications or interview skills training as appropriate.

### 7.3 Escalation of Cases

In a small number of serious cases, the circumstances may indicate that escalation directly to a Formal Employee Performance Meeting or Formal Employee Performance Hearing is appropriate. Escalation can take place as required, at any time. Managers must be able to justify their decision to escalate a case. This may occur for example because there is a clear and significant risk to service users or colleagues.

Managers should consult with and enlist the support of HR before taking steps to escalate directly to a Formal Employee Performance Meeting or Hearing.

The employee must be forewarned that escalation to a Formal Employee Performance Meeting or Formal Employee Performance Hearing is being considered prior to taking this decision.

## 8/12 Procedure for Managing Unsatisfactory Performance

### 8. Stage 1 Informal Stage

- 8.1** Where concerns about an employee's performance arise, the manager should discuss the matter with the employee without delay, especially where the repercussions could have a significant adverse impact, for example potentially jeopardising the health and safety of colleagues or service users. The employee should be informed that the manager intends to support them to improve their performance in line with the Managing Employee Performance Policy and Procedure. These areas of concern should be linked with the employees regular Performance Reviews and 121 meetings, however, discussions about the areas of concern should not be delayed in order to fit with reviews or 121s which have been scheduled for a future date.
- 8.2** The manager will engage with the employee to clarify their concerns and their expectations of the employee, and the employee will be given an opportunity to respond. The cause of the unsatisfactory performance should be fully explored.
- 8.3** If the employee has successfully completed their probationary period, within the last 6 to 12 months, the manager should explore the reason why the employee's performance has become unsatisfactory in some detail and take advice from HR.
- 8.4** Unless the circumstances are serious enough to justify progressing directly to the formal stages of the procedure, the employee will usually be offered assistance to improve and the employee will be required to take steps to achieve and sustain performance at a level or performance to the required standard.
- 8.5** Brief notes of all discussions relating to managing the employee's performance should be taken and retained, and any agreed actions followed up in writing. An improvement plan can be used for this purpose. Managers will arrange review meetings with the employee to discuss their progress, which will normally take place no less frequently than monthly. .
- 8.6** If the employee's performance improves and consistently reaches a satisfactory level, the manager will recognise the efforts that the employee has made to improve their performance and confirm with the employee that they have reached a satisfactory level. However, the employee should also be informed that if their performance falls below the required standard, within a reasonable timescale, then it is likely that the formal process will be adopted.
- 8.7** When the agreed actions have been implemented and the employee has received a reasonably comprehensive level of support to improve, but this does not result in the required improvements, the manager should initiate the formal procedure. The manager should also confirm this to the employee.

## 9 Stage 2 Formal Stage

The formal procedure for managing an employee's performance should be used where;

- attempts to improve the employee's performance informally have not resulted in the required improvements:

Or

- it is apparent that the employee's performance issues are sufficiently serious to justify escalation:

Or

it is apparent that the employee is not fully engaging with the process in order to make the required improvements to their performance within a reasonable timescale.

### 9.1 Failure to Attend

Where the employee fails to attend a Formal Employee Performance Meeting or Formal Employee Performance Hearing, without an acceptable reason, the meeting/hearing may go ahead in their absence.

### 9.2 FORMAL EMPLOYEE PERFORMANCE MEETING

Where the employee's performance continues to be unsatisfactory, the manager will make arrangements for a Formal Employee Performance Meeting to take place and will invite the employee to attend.

The manager will also invite their own line manager (or an appropriate senior manager within their section who has supported them in managing this case) and an HR representative to attend the meeting. Arrangements should also be made for notes to be taken of the meeting.

The employee will be given at least 5 working days' notice in writing of the Formal Employee Performance Meeting, and will have the right to be accompanied by a work colleague or Trade Union representative. The employee must be made aware of the evidence that will be considered at the Formal Employee Performance Meeting, and provided with copies of documentary evidence in advance if they are not already in possession of them. The employee may also submit evidence for consideration, and where this is the case the Senior Manager must receive it no later than 2 working days before the Formal Employee Performance Meeting.

Having carefully considered the case, the Senior Manager may find that:

- A) The employee's performance is satisfactory. No further action will be taken at this stage; however, the employee's performance will continue to be monitored for a period of 12 months following the Formal Employee Performance Meeting to ensure it is sustainable.

- B) The employee has not been given sufficient opportunity to improve their performance or there is insufficient evidence that that the performance does not meet the required standard. The Senior Manager would then advise the manager to continue to monitor performance at Stage 1 and will make recommendations to help with this process.
- C) They are satisfied that the employee has been given sufficient opportunity and support to improve their performance, but their performance remains unacceptable. An Improvement Plan will be drawn up and the employee will be made aware that if they fail to reach the required standard by the end of the plan, then their case will be considered at a Formal Employee Performance Hearing.

The employee will be notified of the Senior Manager's decision, and this will be confirmed in writing within 5 working days.

**9.3** The line manager and employee will meet to draw up an Improvement Plan as soon as possible following the Formal Employee Performance Meeting. The Improvement Plan will normally cover a period of 4 - 8 weeks, depending on the circumstances. However, with the agreement of the Senior Manager, this may be extended for a reasonable timescale in order to implement any further support mechanisms to enable the employee to reach the required standard of performance.

**9.4** At the end of the period of the improvement plan, the line manager will meet with the employee and decide whether the employee has reached the required standard of performance. If they have, this will be acknowledged in a positive way by the line manager. However, the employee will be informed that their performance will continue to be monitored for a period of 12 months following the successful completion of the Improvement Plan, in order to ensure it is sustainable.

**9.5** Where the employee's performance continues to be unsatisfactory, and as a result dismissal is being considered, the manager will seek the agreement of a decision maker for the case to be considered at a Formal Employee Performance Hearing. The decision maker will be a Head of Service who has no detailed knowledge of the case. In some cases it may be appropriate for the head of a different service to act as decision maker. The employee will also have an opportunity to make a written submission to the decision maker.

## **10 Monitoring Period**

Where an employee is subject to a 12-month monitoring period and their performance falls below an acceptable standard, reasonable attempts to support the employee to improve must be made. If attempts to resolve the situation are unsuccessful, the procedure will recommence at any time, at the Formal Employee Performance Hearing stage.

**10.1** Review meetings will be held as necessary during the 12-month monitoring period. The frequency of the meetings will depend upon the requirements of any Improvement Plan that is in place, and the level of support that the employee

requires, but should not normally occur less frequently than on a monthly basis. This 12 month period should reflect the employee's time at work or on annual leave. If the employee is absent during this period for a substantial period, e.g. 4 weeks or more, due to sickness absence or other leave, the monitoring period will be extended in line with that leave.

## **11 Stage 3 FORMAL EMPLOYEE PERFORMANCE HEARING**

### **Preparing for the Hearing**

- 11.1 The manager should write a report which summarises the employee's shortfall in performance and the steps taken to address that shortfall and submit it, along with appropriate supporting paperwork, to the decision maker. If agreement is reached that a Formal Employee Performance Hearing should be arranged, the report will be adjusted, if necessary, to form the Management Statement of Case at the Hearing. The manager will then make arrangements for a Formal Employee Performance Hearing to take place and will invite the employee to attend.
- 11.2 If the employee's performance issues are connected to a disability or long term condition, the manager must have obtained up to date medical information, and have considered and implemented any reasonable adjustments before proceeding to a Formal Employee Performance Hearing.
- 11.3 The Formal Employee Performance Hearing will be chaired by an experienced Senior Manager. The Chair will be accompanied by an HR representative and a further Senior Manager, who will also act as a panel member. The panel members will have no previous knowledge of the case. The HR representative will arrange a note-taker.
- 11.4 The employee will be given at least 10 working days' notice in writing of the Formal Employee Performance Hearing, and will have the right to be accompanied by a colleague or Trade Union representative. The employee must be made aware of the evidence that will be considered at the Formal Employee Performance Hearing, and provided with copies of documentary evidence in advance if they are not already in possession of them. The employee may also submit evidence for consideration, and where this is the case the Chair must receive it no later than 5 working days before the Formal Employee Performance Hearing.

The manager and employee may each call witnesses to attend the Formal Employee Performance Hearing to give evidence.

11.5 Having carefully considered the case, the Chair may find that:

- A The employee's performance is satisfactory. No further action will be taken at this stage; however, the employee's performance will continue to be monitored for a

period of 12 months following the Formal Employee Performance Hearing to ensure it is sustainable.

- B The employee's performance is not satisfactory but it is apparent that they could achieve an acceptable standard of performance within a reasonable period of time. The exact duration of the improvement period will be determined by the Chair, taking account of the evidence available, and will not normally exceed three months. The Formal Employee Performance Hearing may be reconvened at any time if the employee's performance does not improve during this period. If the employee achieves a satisfactory standard of performance during this period, their performance will continue to be monitored for a period of 12 months following the reconvened Formal Employee Performance Hearing to ensure it is sustainable.
- C They are satisfied that the employee has been given sufficient opportunity and support to improve their performance, and it is appropriate in the circumstances to dismiss with notice.

The employee will be notified of the Chair's decision, and this will be confirmed in writing within 5 working days.

## **12 Appeal**

- 12.1 The employee has the right to appeal against the panel's decision. The grounds for the appeal must be submitted in writing to the Chair of the panel to be received within 7 working days of receiving written confirmation of the Chair's decision.
- 12.2 The appeal panel will comprise of a Head of Service or above who will act as Chair of the panel and they will be accompanied by a Senior Manager and an HR representative. Members of the panel will have no prior knowledge of the case.
- 12.3 Having carefully considered the case, the panel will decide on one of the following;
  - A) To uphold the decision; or
  - B) Find that the employee's performance is satisfactory. In this case, the employee's performance will continue to be monitored for a period of 12 months following the Formal Employee Performance Hearing to ensure it is sustainable.

## Employee Performance Procedure for Chief Officers

### Scope

This procedure applies to all employees of the Council employed on JNC for local authority Chief Officer terms and conditions. Where the employee concerned is the Head of Paid Service (i.e. the Chief Executive), the Monitoring Officer (i.e. the Head of Strategic Support) or the Chief Finance Officer (i.e. the Strategic Director for Corporate Resources) please refer to [Appendix A](#) for additional procedural requirements which are applicable to these posts.

### Purpose

This document sets out the procedure to be followed where an employee fails to perform their job to the required standard. Its aim is to provide a process by which to raise concerns in relation to performance and to assist employees to improve their performance in order to reach and then maintain the required standard.

The Council's Code of Conduct sets out the minimum standards of behaviour expected from its employees. Managers and employees should ensure that they read this document in conjunction with the Code of Conduct.

### STAGE 1

Senior Managers are expected, as part of their day-to-day management duties, to provide regular feedback to their employees regarding their performance. Concerns regarding an employee's underperformance should be addressed at the time they arise and should not be saved up for a Performance Review or scheduled 121, unless the meeting is imminent. However, reference to the areas of concern should also be reflected in Performance Reviews when they occur to ensure that a consistent approach to the management of performance can be evidenced.

The senior manager will clearly identify the shortfall in performance making reference to specific examples of work where the employee's performance did not meet the required standard. The employee will be given the opportunity to respond and explain any factors that might be affecting their performance. The manager will clarify the standard of performance that is expected and, where appropriate, targets will be set. Depending on the nature of the performance concerns, a period of up to 2 months may be given for the necessary improvements to be made before determining whether to proceed to stage 2. The length of such a period is at the discretion of the manager.

In cases where the employee's performance issues may be related to a medical condition or disability, advice should be sought from Occupational Health in relation to potential reasonable adjustments and the likelihood of the employee being able to successfully undertake their current or an alternative role.

The manager and employee will meet during the improvement period to review progress. If either the manager or the employee identifies any further support that could reasonably be provided to improve performance, this will be arranged where it is considered



appropriate. These progress review meetings do not replace normal day-to-day management and any issues should be picked up as they arise, with further discussion taking place at the next review meeting.

At the end of the improvement period, a final review meeting, with their senior manager, will take place to determine the employee's progress. There are two possible outcomes to this meeting:

- The employee has reached the required standard therefore no further action is necessary. The employee will be reminded of the need to sustain this level of performance for the following 12 month period. Failure to do so without, in the view of the manager, an acceptable reason will result in any further concerns being considered immediately under stage 2;
- The employee has failed to reach the required standard and it will therefore be necessary to move to stage 2 of the procedure.

Following the meeting, the employee will be provided with a written summary of the discussion.

Where a shortfall in performance could jeopardise the health and safety of the employee or others, immediate action will be required and consideration should be given to bypassing stage 1 and commencing the procedure at stage 2. In exceptional circumstances, there may be a need to consider restricting duties on health and safety grounds. Advice should be sought from Strategic HR.

## **STAGE 2**

Where stage 1 does not lead to a satisfactory improvement in the employee's performance or there is a serious health and safety risk or where it is otherwise considered appropriate, the employee will be invited to a formal performance meeting.

The manager will write to the employee to notify them of the details of the meeting and their right to be accompanied by a work colleague or trade union representative. At least 5 working days' notice must be provided. The letter must also include details of the concerns regarding the employee's performance and any monitoring/progress to date.

The meeting should include:

- A discussion around the (continued) shortfall in performance, including reference to specific examples of work where the employee's performance did not meet the required standard;
- Consideration of any extenuating circumstances that may be affecting the employee's performance;
- A discussion around any support that has already been provided or could be provided in order to help the employee improve their performance;

- A reminder of the standard of performance that is expected, the targets that will be set (where appropriate) and the time frame over which performance will be monitored for improvement.

Depending on the nature of the performance concerns, a period of up to 4 months may be given for the necessary improvements to be made. The length of such a period is at the discretion of the manager. The employee must be advised that if they fail to improve their performance by the end of this period, an employee performance hearing will be arranged, the outcome of which could be dismissal. Following the meeting, the employee will be provided with a written summary of the discussion.

The manager and employee will meet during the improvement period to review progress. If either the manager or the employee identifies any further support that could reasonably be provided to improve performance, this will be arranged where it is considered appropriate. Where it is felt that the employee is unlikely to achieve the required improvements but may be capable of successfully undertaking another role, consideration should be given to exploring whether a suitable role is available within the Council. This should be discussed with the employee.

Where an employee fails to engage in the process and no progress has been made towards achieving the necessary improvements, the employee will be advised that the improvement period will be terminated early and an employee performance hearing will be arranged, in accordance with stage 3. Advice must be sought from Strategic HR before escalating the procedure in this way.

At the end of the improvement period, a final review meeting will take place to determine the employee's progress. There are three possible outcomes to this meeting:

- The employee has reached the required level of performance therefore no further formal action is necessary. The employee will be reminded of the need to sustain this level of performance for the following 12 month period. Failure to do so without, in the view of the manager, an acceptable reason will result in any further concerns being considered immediately under stage 3;
- The employee has not reached the required level of performance but has made substantial improvements and further progress is likely. In this situation the review period may be extended by up to 2 months. Progress will continue to be monitored during this period and a further final review meeting will be held at the end of the extension;
- The employee has made little or no improvement and further progress is unlikely therefore an employee performance hearing will be arranged under stage 3. The employee must be reminded that dismissal is a potential outcome of the hearing.

The employee must be sent a letter confirming the outcome of the final review meeting.

### **STAGE 3**

A Managing Employee Performance hearing will be arranged to consider the employee's performance. The panel for JNC staff up to and including Heads of Service will include a Head of Service and a Strategic Director or 2 Strategic Directors, with no prior involvement in the case, plus a HR Manager. For cases relating to a Strategic Director who is not a Statutory Officer, the panel, appointed by the Personnel Committee, will consist of five elected members (with a quorum of three) with no prior involvement in the case.

The employee will receive a minimum of 10 working days written notice of the hearing. The letter should include details of the employee's right to be accompanied by a work colleague or trade union representative and the potential outcomes of the hearing. A copy of any paperwork which the manager intends to refer to at the hearing must also be enclosed. Any documentation that the employee wishes to refer to at the hearing must be received by the Chair of the panel at least 5 working days before the date of the hearing. It will be the panel's discretion as to whether any documentation presented outside of these deadlines will be considered at the hearing.

Both the manager and the employee may call witnesses. Details of the manager's witnesses will be included in the hearing invite letter. The employee is responsible for inviting their witnesses to the hearing and must provide the names of any witnesses to the Chair of the panel at least 5 working days before the hearing date. The format of the hearing can be found at [Appendix B](#).

The panel may decide that:

- The employee's level of performance is now acceptable. In this situation, the employee performance procedure will cease however the employee will be reminded of the need to sustain this level of performance for the following 12 month period. Failure to do so without, in the view of the manager, an acceptable reason will result in any further concerns being considered immediately under stage 3;
- The employee should be granted a further period (up to 2 months) during which to improve their performance. In addition to determining the duration of the improvement period, the panel may also wish to make recommendations regarding targets and/or supportive measures. During the extension period, the manager will continue to monitor progress and should meet with the employee to discuss their progress. If the employee's performance has not improved by the end of the extension period, the manager will arrange a further employee performance hearing using the same panel members and process as the original hearing. If the employee's performance has improved to an acceptable level, the manager should remind the employee of the need to sustain this level of performance for the following 12 month period. Failure to do so without, in the view of the manager, an acceptable reason will result in any further concerns being considered immediately under stage 3;
- The employee's level of performance is not acceptable. In this situation, the panel will dismiss the employee from the Council's employment with contractual notice.

The employee must be sent a letter confirming the outcome of the hearing within 5 working days. A copy of the notes from the hearing should also be provided.

If the panel determines that the employee should be dismissed, notice of the dismissal cannot be issued until:

- The Chief Executive is provided with the name of the employee whom it is proposed to be dismissed and any other particulars which the hearing panel considers relevant to the dismissal; and
- The Chief Executive has provided every member of the Cabinet with the name of the employee whom it is proposed to be dismissed, any other particulars relevant to the dismissal notified to the Chief Executive and the date by which any objection to the dismissal must be made by the Leader on behalf of the Executive to the Chief Executive; and either
- The Leader has, within the specified period, notified the hearing panel that there are no objections to the dismissal from the Cabinet or the Chief Executive has confirmed to the panel that no objections were received from the Leader; or
- The panel is satisfied that any objection received from the Leader within the specified period is not material or is not well-founded.

The panel will write to the employee to confirm their decision within 5 working days and to give notice of dismissal, if appropriate.

### **Right of Appeal**

An employee has the right to appeal against their dismissal and must submit an appeal registration form to the Head of Strategic Support within 5 working days of receiving the letter confirming their dismissal. When completing the registration form the employee should specify the grounds for their appeal and attach any supporting evidence. New evidence will only be considered if it is relevant and there was a good reason why it was not provided as part of the original hearing.

The appeal will be considered by a panel, appointed by the Personnel Committee, of five elected members (with a quorum of three) with no prior involvement in the case. The panel should contain no more than one member of the Cabinet. The employee may be accompanied by a work colleague or trade union representative.

The format of the hearing will be as per the Appeal policy and Procedure. The panel will consider the appellant's grounds of appeal and determine whether the original decision to recommend the employee's dismissal was reasonable in the circumstances.

The panel will write to the employee to confirm the outcome of the appeal within 5 working days. There is no further internal right of appeal.

## Appendix Additional Procedural requirements applicable to the Head of Paid Service, Monitoring Officer and Chief Finance Officer

The following variations to the Employee Performance Procedure for Chief Officers will apply where the subject of the underperformance is the Head of Paid Service (i.e. the Chief Executive), the Monitoring Officer (i.e. the Head of Strategic Support) or the Chief Finance Officer (i.e. the Strategic Director for Corporate Resources).

### **STAGE 1 - Informal**

If the employee concerned is the Chief Executive, an appropriate person will be appointed by the Leader (or Deputy Leader in their absence) to undertake this stage of the procedure. For the other two posts, the Chief Executive will undertake this stage as the manager of the post holders.

### **STAGE 2 – Personnel Committee**

If the employee fails to make the required improvements by the end of stage 2 and therefore dismissal is a possibility, the matter will need to be referred for consideration by the Personnel Committee. The Committee may decide to appoint an Independent Investigating Officer to examine the circumstances of the case and to advise it on any action to be taken.

A meeting of the Personnel Committee will be arranged to consider what action, if any, is appropriate. The Committee must include at least one member of the Cabinet.

The employee will be invited to attend the meeting and may be accompanied by a work colleague or trade union representative. At least 10 working days' notice should be provided. After considering the results of the stage 2 investigation and hearing the views of the employee, the Committee may decide:

- That no further action is necessary;
- To deal with the matter informally (e.g. by providing the employee with additional training);
- To grant the employee redeployment status for a specified period to provide them with the opportunity to obtain an alternative post with the Council;
- To allow the employee the opportunity to tender their resignation or to retire;
- To recommend the employee's dismissal and refer the matter to an Independent Panel for a report.

The employee will be notified in writing of the outcome of the meeting within 5 working days. The letter should include the rationale for the decision and details of the employee's right of appeal. A copy of the notes from the meeting should also be provided.

### **The Independent Panel**

Where the Personnel Committee recommends the dismissal of the employee, the matter will be referred to an Independent Panel for a report. This panel will include at least two independent persons who have consented to serve from amongst those previously appointed by the County Council or by another Council under Section 28(7) of the Localism Act 2011.

Both parties should be present or represented at the meeting. The Independent Panel should receive any oral representation from the Statutory Officer. The Personnel Committee should nominate a person to attend on its behalf to provide any response on behalf of the Personnel Committee to the points made. The Independent Panel may ask questions of either party.

The Independent Panel should review the decision of Personnel Committee and prepare a report for Full Council. This report should contain clear rationale if they disagree with the recommendation to dismiss.

The Personnel Committee's proposal to dismiss the employee will be referred to Full Council along with a copy of the Independent Panel's report. The meeting of the Independent Panel must take place at least 20 working days before Full Council meet to consider the employee's dismissal.

### **Full Council**

Full Council will meet to consider the proposal to dismiss the employee and will take into account factors including:

- Any advice, views or recommendations from the Independent Panel;
- The conclusions of any investigation into the proposed dismissal;
- Any representations from the employee concerned.

The employee will be invited to attend and may be accompanied by a work colleague or trade union representative. Copies of the paperwork to be considered at the meeting should be provided to all parties in advance. The employee should ensure that they take the opportunity to challenge their proposed dismissal as there is no further internal right of appeal after this meeting.

All discussions will take place under the exempt section of the council meeting.

If Full Council approves the proposal to dismiss the employee, the notice of dismissal cannot be issued until the Chief Executive (or Deputy Chief Executive if required) has provided every member of the Executive with the opportunity to object to the dismissal.

Personnel Committee will write to the employee within 5 working days to advise them of the outcome and to give notice, if appropriate.

## Appendix B - Format of the Employee Performance Hearing

1. The Chair of the panel will introduce those present and outline the procedure to be followed. An employee who is not accompanied will be reminded of their right to representation by a work colleague or trade union representative.
2. The manager presenting the case (i.e. the Presenting Officer) will outline their case. They should refer to documents circulated beforehand to evidence their views.
3. The employee and/or their representative may question the Presenting Officer.
4. The panel may question the Presenting Officer.
5. If applicable, the Presenting Officer will invite management's witnesses (one by one) to the hearing. Each witness will be questioned initially by the Presenting Officer, then the employee and/or their representative may question the witness followed by questions from the panel.
6. The employee and/or their representative will outline their case. They may refer to documents circulated beforehand.
7. The Presenting Officer may question the employee and their representative.
8. The panel may question the employee and their representative.
9. If applicable, the employee or their representative will invite the employee's witnesses (one by one) to the hearing. Each witness will be questioned initially by the employee and/or their representative, then the Presenting Officer may question the witness followed by questions from the panel.
10. The Presenting Officer may make brief concluding remarks.
11. The employee and/or their representative may make brief concluding remarks.
12. The Presenting Officer, the employee and their representative will leave the room.
13. Having deliberated on the matters placed before them, the panel will reach their decision and then recall both parties to inform them of the decision. If the panel cannot realistic make a decision on that date, they should agree a date and method of relaying this decision to the employee as quickly as possible.



## Managing Employee Performance Guidance

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## 1 Purpose

- 1.1 This guidance should be used in conjunction with the Council's Managing Employee Performance Policy and Procedure or the Managing Employee Performance Policy and Procedure for JNC Grade and above.
- 1.2 The guidance outlines in greater detail how managers can encourage and support employees to perform at the required standard.

## 2 Stage 1 - Informal Discussion

- 2.1 Managers need to be very clear about what they expect from the employees who report to them, for some roles it will be possible to measure output and make comparisons with other employees. For many jobs measures will include targets (KPIs), behaviours, skills, knowledge, team working, project management etc. While the Council does not adopt a formal competency framework, there is nothing to stop managers identifying key competences which relate to particular roles and using these as a benchmark of performance. In this instance, advice should be sought from HR to ensure that the competencies are in line with the job profile and grade for the job.



- 2.2 Managers who are managing managers and team leaders need to consider the performance and motivation of the teams that are being managed. Recognising that a whole set of different skills and knowledge are required in order for a manager to manage people effectively. While it is helpful to set targets for team performance and to provide ongoing support and guidance to managers and team leaders, allowances should also be made for the fact that managers have different styles and some team members can be more challenging than others.
- 2.3 Management of underperformance should sit seamlessly with day to day performance management of all employees. Outlined below are examples of when it is likely to be appropriate to adopt the Managing Employee Performance Policy and Procedure, this list is not exhaustive:
- Where the quantity and or quality of an employee's work is consistently lower than colleagues in comparable posts:
  - Where previous workplace performance is not maintained and discussions with the employee have not revealed a reason for or change in this pattern:
  - Where the employee has failed to adapt to the changing demands of their job:
  - Following complaints or feedback from service users, elected members, team members or colleagues:
  - Where an employee can fulfil only part of the duties of their job and interventions identified in Personal Reviews and 121s have been unsuccessful:
  - Where employees fail to build and maintain working relationships that are appropriate for their role.
  - Where a team or teams managed by the employee are dysfunctional, seriously de motivated or underperforming.
- 2.4 Whether the underperformance has already been discussed at Personal Reviews or 121s or is something that has recently come to the attention of the manager, a meeting should be arranged with the employee to discuss this without delay. The manager should prepare carefully for the meeting by gathering evidence to support the concerns, preparing questions, taking advice from HR or their line manager and considering carefully how they can support the employee to improve.
- 2.5 The meeting should be confidential and the employee should know why the meeting has been arranged e.g. to discuss how a particular aspect of their work can be achieved more effectively, feedback received from service users, the performance of the employees team etc. The employee should also understand the status of the meeting, e.g. the meeting is in line with the informal stage of HR 'Managing Employee Performance Policy and Procedure. Reassurance should be given that that the main purpose of the policy is to work with the employee to ensure that they maintain a required standard of performance at work. The employee should be provided with a copy of the policy and procedure.

- 2.6 At the meeting the manager should focus on providing honest and clear feedback without undermining the employee's confidence and self-esteem. There will inevitably need to be some discussion about the standards that are expected and an outline of where the manager feels that they would want the employee to change or improve. However, the manager should also be prepared to listen to the employee's assessment of their performance and to work with them to come to an agreement, where possible, of a way forward. The manager and employee should aim for cooperation and joint endeavour to help the employee to improve.
- 2.7 Brief notes of the discussion and actions should be taken. This may be in the form of an improvement plan or simply an outline of expectations and actions to be taken to support the employee to reach those expectations. [A sample Improvement Plan is attached as Appendix 1 and a template Improvement Plan is attached as Appendix 2.](#) The manager and employee should both have a copy of the documentation. Following the meeting, the manager should also arrange a series of review meetings with the employee to discuss their progress. While these meetings should be regular, at least monthly, they should also be appropriate to the expectations set and the employees working hours etc. The review meeting should include a brief summary of what has happened so far, an opportunity to recognise any improvements that have been made and to agree further actions if appropriate. Copies of documentation should be provided to the employee.
- 2.8 The manager should seek the help and support of their line manager, or another appropriate senior manager suggested by the manager's manager throughout the process. In addition to providing positive suggestions and the benefit of their experience, this manager should also act as a 'critical friend' reviewing decisions and paperwork and offering supportive 'challenges' as appropriate. It is envisaged that the views of a senior manager, in assessing what constitutes an acceptable standard, would be particularly useful. Help and support would also be available from HR.
- 2.9 Following a reasonable number of review meetings, 2 to 6 meetings dependant on the amount of support to be implemented, the manager should be in a position to decide if performance has improved and if it consistently reaches a satisfactory level. If this is the case, the manager should recognise the efforts that the employee has made to improve their performance and confirm to the employee that they have reached a satisfactory level. However, the employee should also be informed that if their performance falls below the required standard, within a reasonable timescale, then it is likely that the formal process will be adopted. [This decision should be confirmed in writing and a template letter is attached as Appendix 3.](#)
- 2.10 If the employee's performance fails to reach and maintain a satisfactory standard, when the agreed actions have been implemented and a reasonably comprehensive level of support has been provided, the manager should

initiate the formal procedure. The manager should also confirm this to the employee.

### 3 Stage 2 – Formal Stage

- 3.1 This stage could be likened to Stage 2 of the Attendance Policy and Procedure of the formal investigatory stage of the Council's Disciplinary Policy and Procedure. This is a formal meeting, which is arranged by the line manager. The employee will be invited to attend the meeting in writing, they have a right to be accompanied by a Trade Union representative or work colleague. [A template letter is attached as Appendix 4.](#) The employee should also have access to all the documentary evidence which will be presented by the line manager at the meeting and will have an opportunity to present documentary evidence of their own in support of their case. The employee will be given at least 5 working days' notice of the meeting and should expect to provide copies their evidence at least 2 days before the date of the meeting.
- 3.2 The purpose of the meeting is for the manager's manager or another appropriate senior manager, who has been involved in supporting the line manager, to consider all the documentary evidence and listen carefully to the views of the manager and the employee. That Senior Manager will be supported in their deliberations by a member of the HR team.
- 3.3 In addition to any informal improvement plans and other relevant evidence already used, supporting documents may include some of the following:
- Files
  - Policies and procedures
  - Management documents (e.g. Service Plans, KPIs etc.)
  - Information about team performance (anonymised as appropriate)
  - Rotas and timesheets
  - Computer records\*
  - Telephone records\*
  - Vehicle tracking systems\*
  - Training records
  - Service user information, comments or complaints
  - Personal Review records
  - Information from colleagues and managers
- 3.4 The Senior Manager will decide how the meeting will be conducted and should aim to ensure that all relevant views and evidence have been properly considered. At the start of the meeting the Senior Manager will:

- Acknowledge that the process may be difficult for both the employee and the manager and reiterate that the purpose of the process is to support the employee to perform to an acceptable level:
  - Introduce the people present and explain their role if necessary:
  - Explain the purpose of the meeting;
  - Advise that breaks can be taken as necessary;
  - Advise that a written record of the meeting will be taken and sent to the employee and manager for verification and that the employee will have the opportunity to amend the notes as necessary before signing and returning one copy.
- 3.5 During the course of the meeting, the Senior Manager will ask whether there are any factors which may be affecting the employee's performance which have so far not been disclosed or discussed. Open questions should be used to gain a broad picture of any additional factors. The Senior Manager should also reiterate the importance of ensuring confidentiality and discuss how the employee's self-esteem and motivation can be supported through the process.
- 3.6 At the end of the meeting, the Senior Manager is likely to need time to consider the 3 options available to them and discuss the case further with their HR representative before reaching a decision. Alternatively, they may feel that they require further evidence and will re convene the meeting at a later date when this evidence has been provided.
- 3.7 The Senior Manager will then decide upon and inform the employee of one of the following Options:
- A) That the employee's performance is now satisfactory, congratulate them on the improvements that they have made with their performance and be advised that this will be monitored for a period of 12 months to ensure that they are able to sustain an acceptable level of performance:
  - B) That the Senior Manager feels that the employee is likely to meet the required standard following further support or interventions. This support or intervention should be articulated in some detail to both the employee and manager and the employee informed that they will continue to be supported in line with Stage 1 of this Policy and Procedure.
  - C) That the Senior Manager is satisfied that the employee has been given sufficient opportunity and support to improve, but their level of performance remains unacceptable. The Senior Manager will advise that the manager and employee should meet together as soon as possible to draw up an improvement plan which would normally cover a period of 4 to 8 weeks. However, with the agreement of the Senior Manager, this may be extended for a reasonable timescale in order to implement any further support

mechanisms to enable the employee to reach the required standard of performance.

- 3.8 The Senior Manager will confirm their decision to the employee in writing within 5 working days of the meeting. [A template letter is attached as Appendix 5.](#)
- 3.9 At the end of the period of the improvement plan, the line manager will meet with the employee and decide whether the employee has reached the required standard of performance. If they have, this will be acknowledged in a positive way by the line manager. However, the employee will be informed that their performance will continue to be monitored for a period of 12 months following the successful completion of the Improvement Plan, in order to ensure it is sustainable. Adjust template letter 5 as appropriate in order to confirm this in writing.
- 3.10 Where the employee's performance continues to be unsatisfactory, and as a result dismissal is being considered, the manager will seek the agreement of a decision maker for the case to be considered at a Formal Employee Performance Hearing. The decision maker will be a Head of Service who has no detailed knowledge of the case. In some cases it may be appropriate for the head of a different service to act as decision maker.

### **Preparing for the Hearing**

- 3.11 The manager should write a report which summarises the employee's shortfall in performance and the steps taken to address that shortfall and submit it, along with appropriate supporting paperwork, to the decision maker. As a copy of the report should be included in any employee performance hearing paperwork, it is important that the report is well structured and clearly defines the background, methods of investigation, and summarises the key points. [An example employee performance report format can be found at Appendix .6](#)
- 3.12 The manager should also write to the employee and inform them that they also have an opportunity to submit a written document to the decision maker within 5 days of receiving this letter.
- 3.13 The decision maker should read all the written evidence in support of the case carefully and decide whether this case should be brought before a hearing panel. They should take into account that that panel could decide to dismiss the employee because of their inability to sustain a level of workplace performance to a required standard. The decision maker should consider if that required standard is fair and in line with the seniority of the post, whether these expectations have been made clear to the employee and whether a reasonably comprehensive level of support has been provided to the employee to help them to meet and maintain this level of performance.

## 4 Stage 3 Formal Employee Performance Hearing

- 4.1 Once a decision has been made whether or not that the case should be considered at a hearing, the employee should be advised of the outcome in writing as soon as possible by the decision making manager. The decision maker should talk to the employee and confirm their decision and confirm this decision by email.
- 4.2 If the decision maker agrees that a Formal Employee Performance Hearing should be arranged, the line manager will adjust the report, if necessary, to form the Management Statement of Case at the Hearing. The manager will then make arrangements for a Formal Employee Performance Hearing to take place and will invite the employee to attend.
- 4.3 If the employee's performance issues are connected to a disability or long term condition, the manager must have obtained up to date medical information, and have considered and implemented any reasonable adjustments before proceeding to a Formal Employee Performance Hearing.
- 4.4 The line manager is responsible for organising the hearing, including arranging a panel, rooms and refreshments. HR will provide advice on suitably experienced panel members and will arrange for an external note taker to attend. It is not expected that a verbatim account of the hearing will be produced.

### Documentation

- 4.5 The line manager will write to the employee, on behalf of the Chair of the panel, to notify them of the details of the hearing giving them a minimum of 10 working days' notice. The letter should include:
  - The date, time and venue of the employee performance hearing:
  - The names and job titles of the panel members and HR representatives:
  - A brief statement outlining how the employee has failed to sustain workplace performance to the required standard:
  - Details of the employee's right to be represented at the hearing by a work colleague or Trade Union representative:
  - The names of any witnesses that will be attending.

A template letter is attached at [Appendix 7](#)

**A copy of any evidence that will be relied on at the hearing must also be enclosed.** This should include:

- Brief details of the employee's role and their employment (include a copy of the employee's job description and person specification);
- A copy of the employee performance report (including copies of all notes of meetings, improvement plan/plans, training/coaching interventions and evidence of how the employee has failed to meet and sustain performance to the required standard);
- Copies of relevant policies and procedures.

An example employee performance hearing folder contents list can be found at [Appendix 8](#)

- 4.6 The letter to the employee must also request that if they intend to refer to any documentation at the hearing, a copy of this must be sent to the line manager with the names of any witnesses, at least 5 working days before the date of the hearing. The line manager should ensure that copies are provided to the panel members.
- 4.7 At the employee performance hearing the line manager or the Senior Manager, who managed the meeting at Stage 2 of this Policy and Procedure will be required to act as Presenting Officer and present a 'statement of case'. It is important that only relevant, factual, concise information which can be evidenced is presented. If the line manager is presenting the case, then the Senior Manager should be called as a witness and if the Senior Manager is presenting the case, then the line manager should be called as a management witness. It will not normally be necessary to ask the decision maker to be called as a management witness.
- 4.8 In advance of the hearing, the Presenting Officer should try to predict the questions which the employee and panel may ask and prepare the answers. If witnesses are due to attend in support of the management case, questions the Presenting Officer wishes to ask of them should also be prepared in advance.
- 4.9 The Formal Employee Performance Hearing will be chaired by an experienced Senior Manager. The Chair will be accompanied by an HR representative and a further Senior Manager, who will also act as a panel member. The panel members will have no previous knowledge of the case.

### **Failure to Attend**

- 4.10 Wherever possible, arrangements for the date of the hearing should be made in consultation with the employee and their representative. Where an employee's chosen representative is unable to attend on the arranged date of the hearing the employee can suggest an alternative within 5 working days of the original date. It is important that the employee is made aware that if they fail to attend on the given (or rearranged) date without an acceptable reason, the hearing may go ahead in their absence.

- 4.11 Where an employee is not able to attend due to ill health it may be necessary, depending on the length of and reason for the absence, to postpone the hearing. In such cases, it may be appropriate for an Occupational Health referral to be made regarding the employee's fitness to attend a hearing.

### **Witnesses**

- 4.12 It is the responsibility of the Presenting Officer (i.e. the manager who will be presenting the case at the employees performance hearing) to ensure that they invite any witnesses to attend the hearing.
- 4.13 Likewise, it is the employee's responsibility to ensure that they invite any witnesses (if required) to support their case at the hearing. Please note that the employee's Trade Union representative / work colleague can act on behalf of the employee to arrange their attendance at the hearing if permission from the employee has been granted.
- 4.14 Witnesses should only be present at the hearing whilst questions are being asked of them by the employee/representative, Presenting Officer and panel members.

### **Release of Witnesses**

- 4.15 Employees who are asked to attend a disciplinary hearing as a witness **must** be released from duty unless this would have a significant impact on service delivery. Advice should be sought from Human Resources before declining such a request.

### **Conduct of the Hearing**

- I. The panel will introduce those present and outline the procedure to be followed. An employee who is not accompanied will be reminded of their right to representation by a work colleague or Trade Union representative.
- II. The manager presenting the case (i.e. the Presenting Officer) will outline their statement of case. They should refer to documents circulated beforehand to evidence their views.
- III. If applicable, the Presenting Officer will invite management's witnesses (one by one) to the hearing. The witness will be questioned initially by the Presenting Officer, then the employee and/or their representative may question the witness followed by questions from the panel.
- IV. The Presenting Officer will conclude their statement of case.
- V. The employee and/or their representative may question the Presenting Officer on their case presentation.



- VI. The panel may question the Presenting Officer on their case presentation.
- VII. The employee and/or their representative will outline their case. They may refer to documents circulated beforehand.
- VIII. If applicable, the employee or their representative will invite the employee's witnesses (one by one) to the hearing. The witness will be questioned initially by the employee and/or their representative, then the Presenting Officer may question the witness followed by questions from the panel.
- IX. The employee and/or their representative will conclude their case.
- X. The Presenting Officer may question the employee and their representative on their case presentation (the employee's representative is not usually able to answer questions on their behalf).
- XI. The panel may question the employee and their representative on their case presentation (the employee's representative is not usually able to answer questions on their behalf).
- XII. The Presenting Officer will have the opportunity to sum up the case against the employee. No new evidence can be included at this point.
- XIII. The employee and/or their representative will have the opportunity to sum up their case. No new evidence can be included at this point.
- XIV. The Presenting Officer, the employee and their representative will leave the room so that the panel can deliberate.
- XV. Having deliberated on the matters placed before them, the panel will reach their decision. Depending on the complexity of the case, it may be appropriate to ask all parties to wait and be recalled to be advised of the outcome. In other cases, it may be more appropriate for the panel to deliberate and to advise the employee and subsequently the management side of the outcome, at a later date. If this is the case, the decision should be made within a reasonable timescale e.g. within a few days and the method of contacting the employee should also be agreed before the hearing is concluded.

## **Potential Outcomes**

Having carefully considered the case, the Chair may find that:

- A) The employee's performance is satisfactory. No further action will be taken at this stage; however, the employee's performance will continue to be monitored for a period of 12 months following the Formal Employee Performance Hearing to ensure it is sustainable.

- B) The employee's performance is not satisfactory but it is apparent that they could achieve an acceptable standard of performance within a reasonable period of time. The exact duration of the improvement period will be determined by the Chair, taking account of the evidence available, and will not normally exceed three months. The Formal Employee Performance Hearing may be reconvened at any time if the employee's performance does not improve during this period. If the employee achieves a satisfactory standard of performance during this period, their performance will continue to be monitored for a period of 12 months following the re convened Formal Employee Performance Hearing to ensure it is sustainable.
- C) They are satisfied that the employee has been given sufficient opportunity and support to improve their performance, and it is appropriate in the circumstances to dismiss with notice. It may or may not be appropriate for the employee to continue to work during this period of paid notice. By agreement of both parties, employees could be paid in lieu of notice and be released to seek further employment. However, this should not be agreed until the period of a right to appeal has been exceeded and the employee has confirmed that they do not wish to exercise their right of appeal or following an appeal hearing which does not re instate the employee

## Notification of the Outcome

4.16 Where possible, the outcome of the hearing should be confirmed verbally on the same day as the hearing has taken place. The outcome of the hearing should also be confirmed in writing as soon as possible and within 5 working days by the Chair of the panel. [A template letter can be found at Appendix 9.](#) The letter should state the reason for the decision, confirm the sanction awarded and advise the employee of their right of appeal. A copy of the notes from the hearing should also be provided.

## 5 Appeal

5.1 The employee has the right to appeal against all formal sanctions and must be advised of this right in the hearing outcome letter. The grounds for the appeal must be submitted in writing, by the employee, to the Chair of the panel to be received within 7 working days of receiving written confirmation of the Chair's decision.

5.2 The appeal panel will comprise of a Head of Service or above, if the appeal is against a decision to dismiss, who will act as Chair of the panel and they will be accompanied by a Senior Manager and an HR representative. Appeal panels which related to actions short of dismissal, can be chaired by an experienced Senior Manager. Members of the panel will have no prior knowledge of the case.

Having carefully considered the case, the panel will decide on one of the following:

- A) To uphold the decision of the first panel; or
- B) Find that the employee's performance is satisfactory. In this case, the employee's performance will continue to be monitored for a period of 12 months following the Formal Employee Performance Hearing to ensure it is sustainable.

## **6 Hearings relating to JNC employees**

- 6.1 The Policy relating to JNC level employees clearly sets out the composition of the hearing panel and also allows for an alternative sanction to dismissal. Alternative sanctions suggested include secondment or redeployment to a lower graded post. A panel who would wish to explore this sanction would need to carefully consider the practicalities of this option e.g. does such a vacant post exist and if so does the employee meet the essential requirements of the job. The panel must also consider whether the performance which warranted dismissal, within their current post, could be deemed to be acceptable in a lower level post.
- 6.2 If the panel explore whether a realistic alternative to dismissal can be accommodated, but conclude that the employee will be dismissed, they should then ensure that brief notes of that deliberation are recorded.
- 6.3 Notice of dismissal, in all circumstances for JNC staff, cannot be issued until the Chief Executive is provided with the name and relevant details relating to the proposal to dismiss. This should be done without delay as the Chief Executive needs to provide these details to every member of the Cabinet, along with relevant details and timeframe within which any objections can be raised. Panel members should work closely with the Chief Executive to ensure that this opportunity for an objection is provided to the employee within 5 working days.
- 6.4 If an objection is raised by a Cabinet member then the basis of their objection needs to be explored with the Chief Executive. The employee should be notified of the situation and given a realistic timescale for the issue to be resolved as quickly as possible.

### **Hearings Relating to Head of Paid Service, Monitoring Officer and Chief Financial Officer**

- 6.5 This policy allows for an informal stage, a meeting with a panel appointed by the Personnel Committee, a hearing by the Personnel Committee a referral to an Independent Panel and consideration by the Full Council. Guidance on managing those stages is set out below:

- The Chief Executive or appropriate person will investigate and discuss the conduct in order to assess whether to deal with it informally. If they conclude that the matter is of a serious nature and there is a reasonable level of evidence that the employee's conduct is unacceptable, then a meeting should be arranged with a panel appointed by the Personnel Committee. That panel is able to decide that no further action should be taken, issue sanctions short of dismissal or appoint an independent investigator. They can also consider secondments or redeployment at this stage, and would also need to carefully consider the practicalities of this option e.g. does such a vacant post exist and if so does the employee meet the essential requirements of the job. The panel must also consider whether the behaviour which warranted dismissal, within the employee's current post, could be deemed to be acceptable in a lower level post. The employee has right of appeal at this stage, in relation to sanctions short of dismissal, through the Councils Appeal Policy and Procedure:
- Following an independent investigation, the case will be considered by a panel appointed by the Personnel Committee in the case. This panel can decide that there is no case to answer, to issue a penalty short of dismissal or to dismiss the employee. The employee can appeal against penalties short of dismissal through the Council's Appeal Policy and Procedure. If the employee is dismissed, then an Independent Panel will be convened to review the case and prepare a report for Full Council:
- Full Council will consider the report and listen to any challenges that the employee or their representative makes. There is no further process of appeal for the employee following this meeting:
- If full Council uphold the dismissal, then the Chief Executive or appropriate officer should provide every member of the Cabinet with the opportunity to object to the dismissal before it is confirmed in writing within 5 days of the meeting. If an objection is raised by a Cabinet member then the basis of their objection needs to be explored with the Chief Executive. The employee should be notified of the situation and given a realistic timescale for the issue to be resolved as quickly as possible.

## 7 Other Factors

### Escalation of Cases

- 7.1 In a small number of serious cases, the circumstances may indicate that escalation directly to a Formal Employee Performance Meeting or Formal Employee Performance Hearing is appropriate. Escalation can take place as required, at any time. Managers must be able to justify their decision to escalate a case. This may occur for example because there is a clear and significant risk to service users or colleagues. Line managers who wish to

escalate a case to a Formal Performance Meeting or Formal Performance Hearing should seek the approval of their Head of Service and clearly articulate the reason for this escalation.

- 7.2 Managers should also consult with and enlist the support of HR before taking steps to escalate directly to a Formal Employee Performance Meeting or Hearing.
- 7.3 The employee must be forewarned that escalation to a Formal Employee Performance Meeting or Formal Employee Performance Hearing is being considered prior to taking this decision.

### **Formal Action against a Trade Union Official**

- 7.4 Although normal employee performance standards will apply to their work as an employee, no formal action should be taken against a Trade Union representative until the circumstances of the case have been discussed with a senior Trade Union representative or full-time officer of the Trade Union concerned.

### **Grievance raised during the Managing Employee Performance Process**

- 7.5 The Council's Grievance Policy should not be used for appeals against employee decisions, as this is the purpose of the Appeal Policy. If, however, the employee has a complaint against the employee performance process during the course of a case, they may raise a grievance using the Council's Grievance Policy. If necessary, the procedure may be suspended for a short period until the grievance can be considered. There may be a number of possible outcomes from this including:
  - Application of other formal action such as disciplinary against another employee / manager;
  - Instigation of other separate investigations which should not prevent the current issue being progressed wherever possible;
  - That another manager is brought in to deal with the employee performance case.



**Appendix 1**

**Performance Support Plan – [Informal / Formal]**

Employee Name: \_\_\_\_\_ Dates of Plan: \_\_\_\_\_ From: \_\_\_\_\_ To: \_\_\_\_\_  
 (Weeks)

Manager Name: \_\_\_\_\_

Area of Concern	What needs to be achieved	Actions to be taken and by whom	Support Required	Timescale
Quantity of work produced is significantly less than other members of the team with less or similar service history	Output of work will need to increase in line with peers. (Adjustment on output to be considered as part of reasonable adjustment).  This is approximately XXX number of transactions per hour / per day / per week / per month.	XXX to channel their attention to completing transactional work rather than assisting in other mini tasks / projects	Manager to facilitate weekly 1-2-1's the first four weeks to enable feedback about quantity of work being produced to assist in keeping XXX on target.  Manager to facilitate meetings every other week for the remainder of the duration of the support plan to provide feedback on output.	1-4 weeks  5-8 weeks
XXX feels that their condition of Dyslexia makes it difficult for them to read emails as quickly as	Workstation assessment needs to be conducted and reasonable adjustments to be considered.  Occupational	Manager to meet with employee and health & safety to carry out workstation.  Manager to complete the	Management to implement reasonable adjustments as necessary.  Once referral report is	ASAP  ASAP

others.	Health Referral to be made to assess impact of disability on performance and what adjustments they can recommend.  Self-referral to access to work	referral form with the assistance of the employee and forward to HR.  Employee to call: 0800 121 7479	received to sit with employee to discuss content of the report and implement any reasonable adjustments.  Work with access to work to ensure they are able to carry out a work place assessment and provide further feedback regarding reasonable adjustments that are required to enable our employee to carry out their duties.	ASAP
Employee has raised concerns about the training received when they first started employment with CBC.	Further training to be provided to enable employee to have the required knowledge about the different systems to carry out their work efficiently.	Manager to organise the required training: <ul style="list-style-type: none"> <li>• i-Trent training on XXX</li> <li>• Visual Files training on XXX</li> <li>• Oracle training on XXX</li> </ul> Employee to ensure they fully engage in training and ask any questions or seek further clarification on material being delivered if required.	Manager will meet with employee following training to seek feedback on how the training went.	Within 4 weeks.
Backlog of	Outstanding	Employee to focus	Management to	2 weeks

work	work needs to be completed as the deadlines for these are within the next couple of weeks	on the work that needs to be completed in the next couple of weeks and pass new work that comes in onto the manager	review workload and ensure XXX is given sufficient time to clear backlog of work.	
Employee is feeling overwhelmed by the process and therefore is finding it more difficult than usual to concentrate.	Employee needs to understand that this is a process which the employer has to follow.  To support the employee they can be buddied up with another work colleague.  Employee can seek further support from Amica if they are feeling stressed or anxious.	Management to explain the process and provide copy of policy.  If employee feels buddying up with someone would help then management to support with this.  Employee to contact Amica on 0116 254 4388 if required.	Management to have open door policy so employees concern can be address accordingly.  To be actioned if required  Employee to ensure they make themselves available at the agreed times for counselling sessions.	On-going  When requested  As and when required

This Performance Support Plan will *[Date]* be reviewed on: \_\_\_\_\_

I understand that this plan will commence with effect from *[Date]* and that if the agreed actions are not achieved and the required level of improvement is not made, then this will result in me progressing to *[formal employee performance meeting / formal employee performance hearing]* of the Managing Employee Performance Policy and Procedure.

I also understand that should I achieve the required level of performance, then *[informal / formal]* procedures will end. However, it is important to note that should improvement not be *[maintained / sustained for the duration of a year]*, then this may result in formal procedures recommencing at *[formal employee performance meeting / formal employee performance hearing]*.

**Include agreed wording about maintaining period and sickness**



---

---

If you do not return a signed copy of this plan within 5 days it will be assumed that you are in agreement with its contents.

Employee's Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Manager's Signature: \_\_\_\_\_ Date: \_\_\_\_\_



## Performance Support Plan – [Informal / Formal]

Employee Name: \_\_\_\_\_ Dates of Plan: \_\_\_\_\_ From: \_\_\_\_\_ To: \_\_\_\_\_  
 (Weeks)

Manager Name: \_\_\_\_\_

Area of Concern	What needs to be achieved	Actions to be taken and by whom	Support Required	Timescale

This Performance Support Plan will *[Date]* be reviewed on: \_\_\_\_\_

I understand that this plan will commence with effect from *[Date]* and that if the agreed actions are not achieved and the required level of improvement is not made, then this will result in me progressing to *[formal employee performance meeting / formal employee performance hearing]* of the Managing Employee Performance Policy and Procedure.

I also understand that should I achieve the required level of performance, then *[informal / formal]* procedures will end. However, it is important to note that should improvement not be *[maintained / sustained for the duration of a year]*, then this may result in formal procedures recommencing at *[formal employee performance meeting / formal employee performance hearing]*.

Include agreed wording about maintaining period and sickness

---

---

If you do not return a signed copy of this plan within 5 days it will be assumed that you are in agreement with its contents.

Employee's Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Manager's Signature: \_\_\_\_\_ Date: \_\_\_\_\_



Appendix 3  
PRIVATE & CONFIDENTIAL

Southfield Road, Loughborough,  
Leicestershire. LE11 2TT

Department: xxxxxxxxxxxxxxxx  
Ask for: xxxxxxxx

Direct Line: 01509-63xxxx  
Email: xxxxxxxxxxxxxxxxxxxxxxxx

DATE: xxxxxxxx

Dear xxxxxxx

Informal Review - Performance Acceptable

Following our meeting held on *[date]* to review progress against the *[informal improvement plan / targets]* put in place to address concerns regarding the level of your performance at work, I am pleased to confirm that you have now achieved the expected level of performance and you are no longer being monitored under the Managing Employee Performance Policy and Procedure.

Thank you for the commitment you have shown in achieving the required level of improvement in performance. I would like to reiterate that you must continue to perform at this acceptable level consistently. Please talk to me if there are aspects of your work that you are finding difficult and I will do my best to help you. You should, however, be aware that your performance will continue to be monitored using the Council's Performance Review Process and 1-2-1's, and should your performance fall short of the required standard then this may be dealt with under the Formal Stage of the Managing Employee Performance Policy and Procedure.

Please do not hesitate to contact me if you have any queries about the contents of this letter.

Yours sincerely

*[Insert name]*  
*[Insert Job Title]*

Enc: *[Improvement Plan / Notes of Meetings]*



Appendix 4  
PRIVATE & CONFIDENTIAL

Southfield Road, Loughborough,  
Leicestershire. LE11 2TT

Department: xxxxxxxxxxxxxxxx  
Ask for: xxxxxxxx

Direct Line: 01509-63xxxx  
Email: xxxxxxxxxxxxxxxxxxxxxxxx

DATE: xxxxxxxxx

Dear xxxxxxxx

Invitation to Formal Employee Performance Meeting

Following our review meeting under the informal stage of the Managing Employee Performance Policy and Procedure on *[date]* when I advised you that I had continuing concerns about your standard of performance, I am writing to confirm that it will now be necessary to invite you to a Formal Employee Performance Meeting.

The Formal Meeting will take place on *[date]* at *[time]* in *[location]* and will be chaired by *[Senior Manager – Line manager’s manager or appropriate Senior Manager, PO Grade or above]*. Also present will be *[HR rep]*. *[Name]* will be in attendance to take notes. On arrival you should report to *[location]* and ask for *[name]*.

I have the following concerns which I wish to raise at the meeting:

*[List areas of concern]*

The purpose of the meeting is not only to discuss areas of your workplace performance which I feel that you need to improve but also to give you the opportunity to provide explanation as to any reasons why your performance is not meeting expectations.

As this is a formal meeting you may, if you wish, be accompanied by a work colleague or Trade Union Representative.

Please be aware that if, having carefully considered the evidence available, the Senior Manager and the HR Adviser are satisfied that you have been given sufficient opportunity and support to improve your performance, but your performance remains

unacceptable, they may take the decision to request management to instigate a Formal Employee Performance Support Plan.

However, if the Senior Manager and the HR adviser feel that the circumstances indicate that an escalation to a Formal Employee Performance Hearing is appropriate then they may make this recommendation. For the case to escalate to a hearing, the case details must be forwarded to an independent Senior Manager to make the final decision on case progression.

Should you or your representative require any special arrangements in order to attend the meeting, please contact me on the above number at least 2 days prior to the meeting so that I can facilitate these for you.

I appreciate that this may be a concerning time for you and would like to remind you that the services of Amica (staff counselling and psychological support services) are available to you on 0116-2544388. Trade union members can also contact their union for advice and support.

Would you please acknowledge receipt of this letter and confirm whether you will be able to attend this meeting.

Please do not hesitate to contact me if you have any queries about the content of this letter.

Yours Sincerely

*[Insert name]*  
*[Insert Job Title]*

Enc: [Managing Employee Performance Policy and Procedure / Improvement Plan / notes of meetings / Health Related Documents](#)

---

I acknowledge receipt of the letter dated *[date]*

I will / will not be attending the Formal Employee Performance meeting arranged for *[date]*.

SIGNED: \_\_\_\_\_  
*[Insert Employees Name]*

Date: \_\_\_\_\_





Appendix 5  
PRIVATE & CONFIDENTIAL

Southfield Road, Loughborough,  
Leicestershire. LE11 2TT

Department: xxxxxxxxxxxxxxxx  
Ask for: xxxxxxxx

Direct Line: 01509-63xxxx  
Email: xxxxxxxxxxxxxxxxxxxxxxxx

DATE: xxxxxxxxx

Dear xxxxxxxx

Outcome of Formal Employee Performance Meeting

In accordance with the Managing Employee Performance Policy and Procedure, I am writing further to the Formal Employee Performance Meeting held on *[Date]* at *[Location]*.

**Option 1:** You were accompanied by *[Name of companion and role i.e. work colleague or Trade Union representative]*.

OR

**Option 2:** You elected not to be accompanied at the hearing OR you were not in attendance at the meeting.

Also present at the Formal Employee Performance Meeting were *[Name, Job Title]* in the capacity of HR representative, and *[Name]* as note-taker.

Management case was presented by *[Name, Job Title]*, and indicated that *[Enter a summary of the main points of the management presentation including reference to documentary evidence and witness statements, and any points of concern or inaccuracy. It is particularly important to reference the available medical information and any reasonable adjustments or supportive measures considered]*.

Your case indicated that *[Enter a summary of the main points of the employee's case including reference to documentary evidence and witness statements, and any points of concern or inaccuracy]*.

#### WHERE DECISION IS MADE THAT PERFORMANCE IS AT A SATISFACTORY LEVEL:

Having carefully considered the evidence presented at the Formal Meeting, I am of the view that your performance is at a satisfactory level. Therefore no further action will be taken at this stage; however, your level of performance must be maintained.

#### WHERE DECISION IS MADE THAT PERFORMANCE ISN'T AT A SATISFACTORY LEVEL BUT COULD BE WITH A LITTLE MORE SUPPORT:

Having carefully considered the evidence presented at the Formal Meeting, I am of the view that your performance is short of being satisfactory. Therefore an extension will be give of [4-6] weeks for you to be able to evidence satisfactory performance. The Formal Employee Performance Meeting will be reconvened to review your progress.

#### WHERE DECISION IS MADE THAT PERFORMANCE ISN'T AT A SATISFACTORY LEVEL:

I am satisfied that you have been given sufficient opportunity and support to improve your performance, but your performance still remains below the required standard. Therefore I will be requesting your manager looks to meet with you to put you onto a Formal Performance Improvement Support Plan as soon as possible.

I will be making the following recommendations regarding supportive measures and reasonable adjustments that might assist you in achieving the required level of performance:

- *[Provide details]*

#### WHERE DECISION IS MADE TO RECOMMEND CASE PROGRESSION TO FORMAL EMPLOYEE PERFORMANCE HEARING:

I am satisfied that you have been given sufficient opportunity and support to improve your performance, but your performance still remains unacceptable. It is my view that circumstances such as the potential risk you pose to *[i.e. clear and significant*

risk to service users or colleagues etc] means that I will be recommending your case be considered by an independent Senior Manager for escalation to a Formal Employee Performance Hearing.

Should you have any questions regarding the content of this letter, please do not hesitate to contact me on *[Enter telephone number]*.

Yours sincerely

*[Insert Name]*  
*[Insert Job Title]*



## **FORMAT OF EMPLOYEE PERFORMANCE REVIEW REPORT**

The following guidelines may be useful for the manager to consider when preparing the case to submit to the decision making officer for taking case to formal employee performance hearing:

### **1. Background of Work Employment**

Details of the employee's job role, how long they have been employed, etc. A copy of the employee's job description and person specification should be attached as an appendix.

### **2. Concerns and how they came to light**

Provide details of when and how you became aware of performance issues.

### **3. Timeline of management support**

Did you try and address the matter informally through supervision?  
What was discussed in the meeting, what support was agreed, did you put them on support plan?  
What was the outcome?  
When did you write to the employee to invite them to the formal employee performance meeting?  
What was the outcome?  
When did you meet to discuss the formal support plan?  
What support if any was agreed, how long was the support plan for?  
What was the final outcome?

### **4. Mitigating circumstances**

What mitigating circumstances are there if any?  
What support have management provided to try and support employee with those difficulties.

### **5. Conclusion**

The Manager should state clearly if all the support required has been offered and if the employee has given their all to meet the targets set and what they deem to be the underlying reason for the employee not achieving the outcomes required.

Manager should try and make references of work carried out and be able to evidence the shortfall in the performance, further information around impact on service delivery and or work colleagues should also be included.

## **6. Recommendation**

Based on the information available to the manager, they need to complete their report by providing a recommendation as to how they feel the case should proceed.

When formulating their recommendation and considering whether or not a Formal Employee Performance Hearing is appropriate the Manager should:

- View the matter objectively;
- Identify any associated risks with underperformance. e.g. service quality, safeguarding concerns etc.
- Take into account all of the information available, including the employee's view on the support offered and the circumstances they find themselves within (i.e. outside work situations, health problems etc.)
- Take a reasoned decision on whether or not to recommend proceeding to a hearing

**As part of the report it is necessary to include appendices of any evidence that has been collated which back up the main report.**



Appendix 7  
PRIVATE & CONFIDENTIAL

Southfield Road, Loughborough,  
Leicestershire. LE11 2TT

Department: xxxxxxxxxxxxxxxx  
Ask for: xxxxxxxx

Direct Line: 01509-63xxxx  
Email: xxxxxxxxxxxxxxxxxxxxxxxx

DATE: xxxxxxxx

Dear xxxxxxx

Invitation to Formal Employee Performance Hearing

Following our review meeting under the formal stage of the Managing Employee Performance Policy and Procedure on *[date]* and the subsequent submission of the Employee Performance Review Report, I am writing to confirm that it will now be necessary to invite you to a Formal Employee Performance Hearing.

The hearing will take place at *[time]* on *[date]* in *[location]* and will be chaired by *[Senior Manager – PO Grade or above]*. Also present will be *[name, job title]* and *[name, job title]*. Also present will be *[name]* to take notes. On arrival you should report to *[location]* and ask for *[name]*.

*[Name]* will be in attendance at the hearing to present the management case. Also present will be *[name, job title]* to support management. Enclosed is a copy of the documents that will be referred to at the hearing.

The specific concerns are:

- *List concerns with specific examples of where this falls short*

The purpose of this hearing is to consider the steps taken to improve your performance and your progress against the Formal Improvement Plan put in place following for the Formal Employee Performance Meeting.

As this is a formal employee performance hearing, you may, if you wish, be accompanied by a work colleague or your Trade Union Representative.

Would you please acknowledge that you are able to attend the hearing and whether you will be calling any witnesses to support your case so that necessary arrangements can be made. *[If applicable; for your information, management will be calling (names) as witnesses]*. If you are unable to provide names at this point in time, these must be submitted to *[name]* no later than 5 working days before the hearing. Any documentation you wish to provide should also be submitted to *[name]* no later than 5 working days before the hearing.

The Formal Employee Performance Hearing may result in one of the following outcomes:

- No further action
- Extension of review period
- Dismissed with contractual notice

Should you or your representative require any special arrangements in order to attend the hearing, please contact me on the above number at least a week before the hearing so that I can facilitate these for you.

Please do not hesitate to contact me if you have any queries about the contents of this letter.

Yours sincerely

*[Insert name]*  
*[Insert Job Title]*

---

I acknowledge receipt of the letter dated *[date]*

I will / will not be attending the Formal Employee Performance Hearing arranged for *[date]*, (if not attending please provide a reason and note that if this is not an acceptable reason the hearing may go ahead in your absence).

I will be calling witnesses (please provide names of any witnesses you intend to call).

Signed: \_\_\_\_\_ Date: \_\_\_\_\_  
*[Insert Employee Name]*





## HEARING FOLDER CONTENTS LIST TEMPLATE

This template is to provide a framework on how to structure an Employee Performance hearing folder. It is not intended to be prescriptive and can be adapted to suit individual requirements.

### **Employee Performance Hearing Folder Contents Page**

Name of Employee:  
Date of Hearing:  
Venue of Hearing:

Name of Chair and Job Title:  
Name of 1<sup>st</sup> Panel Member and Job Title:  
Name of 2<sup>nd</sup> Panel Member and Job Title:

Presenting Officer:

**Section 1**     Invite letter to Formal Employee Performance Hearing

1.1 Invite letter to Formal Employee Performance Hearing

**Section 2**     Employee Performance Review Report

2.1 Employee Performance Review Report

**Section 3**     Managing Employee Performance Policy and Procedure

3.1 Managing Employee Performance Policy and Procedure  
3.2 Hearing Format

**Section 4**     Employment Details

4.1 Employee Summary (Job Title, Grade, Hours, Start Date, etc.)  
4.2 Contract of Employment  
4.3 Job Description and Person Specification

**Section 5**     Correspondence

- 5.1 Invite to Formal Employee Performance Hearing
- 5.2 Formal Performance Review Acceptable Confirmation Letter
- 5.3 Outcome of Formal Employee Performance Meeting
- 5.4 Invitation to Formal Employee Performance Meeting
- 5.5 Informal Performance Review Acceptable Confirmation Letter

**Section 6**      Evidence of underperformance / Notes of Meeting / Evidence

- 6.1 Example of work which doesn't meet the required standard
- 6.2 Examples of deadlines missed
- 6.3 Copy of informal support plan and or meeting notes
- 6.4 Notes of formal employee performance meeting
- 6.5 Copy of formal employee performance support plan
- 6.6 Notes from formal support plan meeting
- 6.7 Notes from final review meeting.
- 6.8 Copies of evidence (e.g. complaint letters, PDR's, etc)

**Section 7**      Supplementary Information

- 7.1 Medical information if applicable

Department: xxxxxxxxxxxxxxxx  
Ask for: xxxxxxxx

Direct Line: 01509-63xxxx  
Email: xxxxxxxxxxxxxxxxxxxxxxxx

DATE: xxxxxxxxx

Dear xxxxxxxx

Outcome of Formal Employee Performance Hearing

In accordance with the Managing Employee Performance Policy and Procedure, I am writing further to the Formal Employee Performance Hearing held on *[Date]* *[in/at]* *[Location]*.

**Option 1:** You were accompanied by *[Name of companion and role i.e. work colleague or Trade Union representative]*.

OR

**Option 2:** You elected not to be accompanied at the hearing OR you were not in attendance at the meeting.

Also present at the formal employee performance hearing were *[Name, Job Title]* in the capacity of HR representative, *[Name, Job Title]* in the capacity of independent senior manager and *[Name]* as note-taker.

Management case was presented by *[Name, Job Title]*, and indicated that *[Enter a summary of the main points of the management presentation including reference to documentary evidence and witness statements, and any points of concern or inaccuracy. It is particularly important to reference the available medical information and any reasonable adjustments or supportive measures considered]*.

Your case indicated that *[Enter a summary of the main points of the employee's case including reference to documentary evidence and witness statements, and any points of concern or inaccuracy]*.

### WHERE DECISION IS MADE THAT PERFORMANCE IS AT A SATISFACTORY LEVEL:

Having carefully considered the evidence presented at the hearing, the panel's view is that your performance is at a satisfactory level. Therefore no further action will be taken at this stage; however, your level of performance must now be maintained for 12 months.

### WHERE DECISION IS MADE THAT PERFORMANCE ISN'T AT A SATISFACTORY LEVEL BUT COULD BE WITH A LITTLE MORE SUPPORT:

Having carefully considered the evidence presented at the hearing, the panel are of the view that your performance is short of being at a satisfactory level. Therefore an extension will be given of [4-6] weeks for you to be able to evidence satisfactory performance. This hearing will then be convened to review your progress.

### WHERE DECISION IS MADE THAT PERFORMANCE ISN'T AT A SATISFACTORY LEVEL AND THEREFORE TO DISMISS:

Having carefully considered the evidence presented at the hearing, the panel is satisfied that it is reasonable in the circumstances to dismiss you from your employment with the Council on the grounds of unsatisfactory performance. This is because *[Enter a brief statement outlining how the decision was reached, referring to the evidence].*

I confirmed this decision to you verbally on [Date], in person following a short adjournment from the hearing OR by telephone, and it will take effect from that date.

You are entitled to *[Enter duration of notice as detailed in the contract of employment]* notice from the date on which you received *[verbal OR written]* confirmation of the decision to dismiss you. Your employment will terminate on [Date], and you are OR are not required to work during your notice period. Your P45 will be forwarded to you following your termination date.

Please return any property which is still in your possession, and [Name] will be in contact with you to arrange this.

You have the right to appeal against your dismissal, and I have enclosed a copy of the Appeal Policy and Procedure along with an appeal registration form. Should you wish to appeal, you must return the completed appeal registration form to me within 7 working days of receiving this letter. The effect of the dismissal will stand, i.e. you will remain dismissed pending the appeal.

Should you have any questions regarding the content of this letter, please do not hesitate to contact me on *[Enter telephone number]*.

Yours sincerely

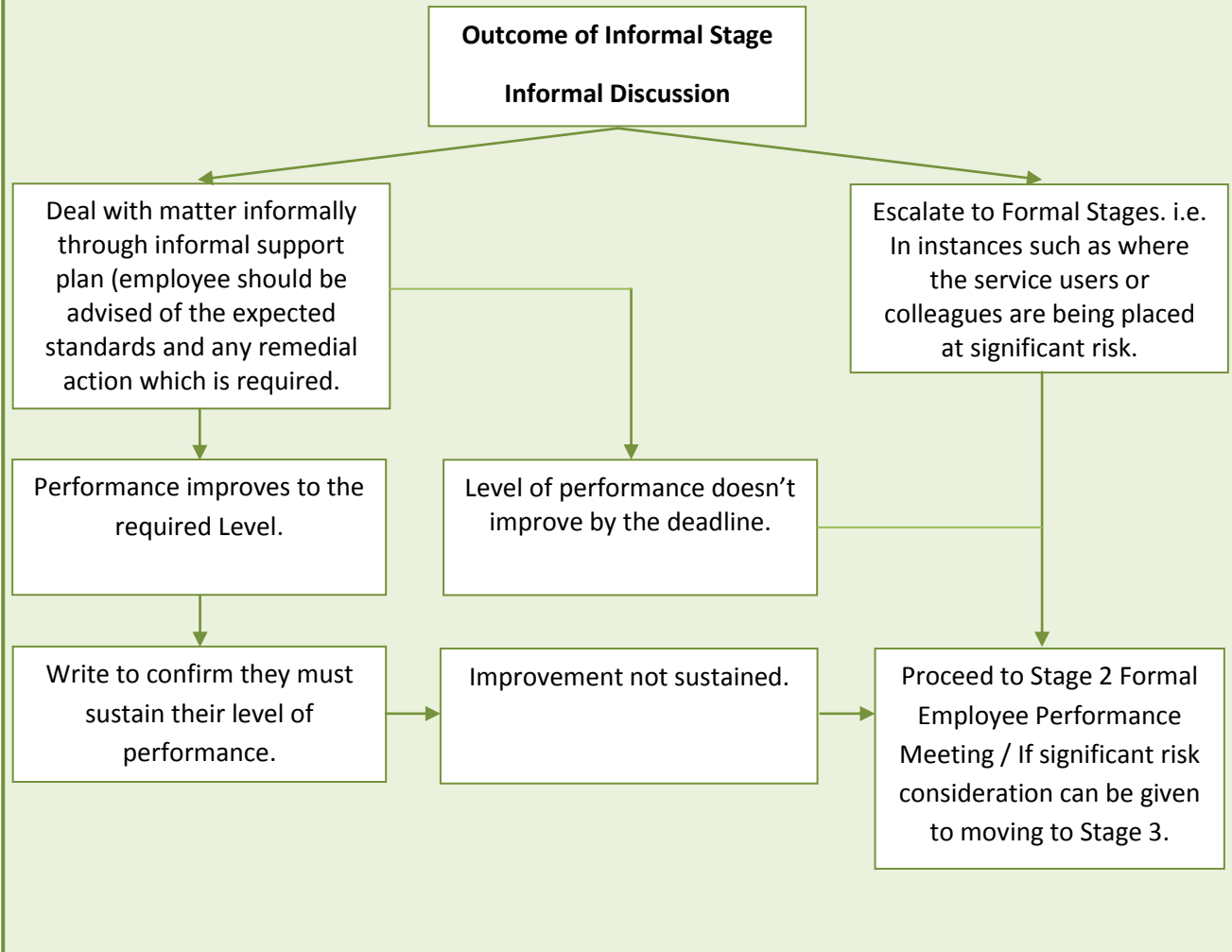
*[Insert Name]*  
*[Insert Job Title]*

## Managing Employee Performance

Concerns related to performance

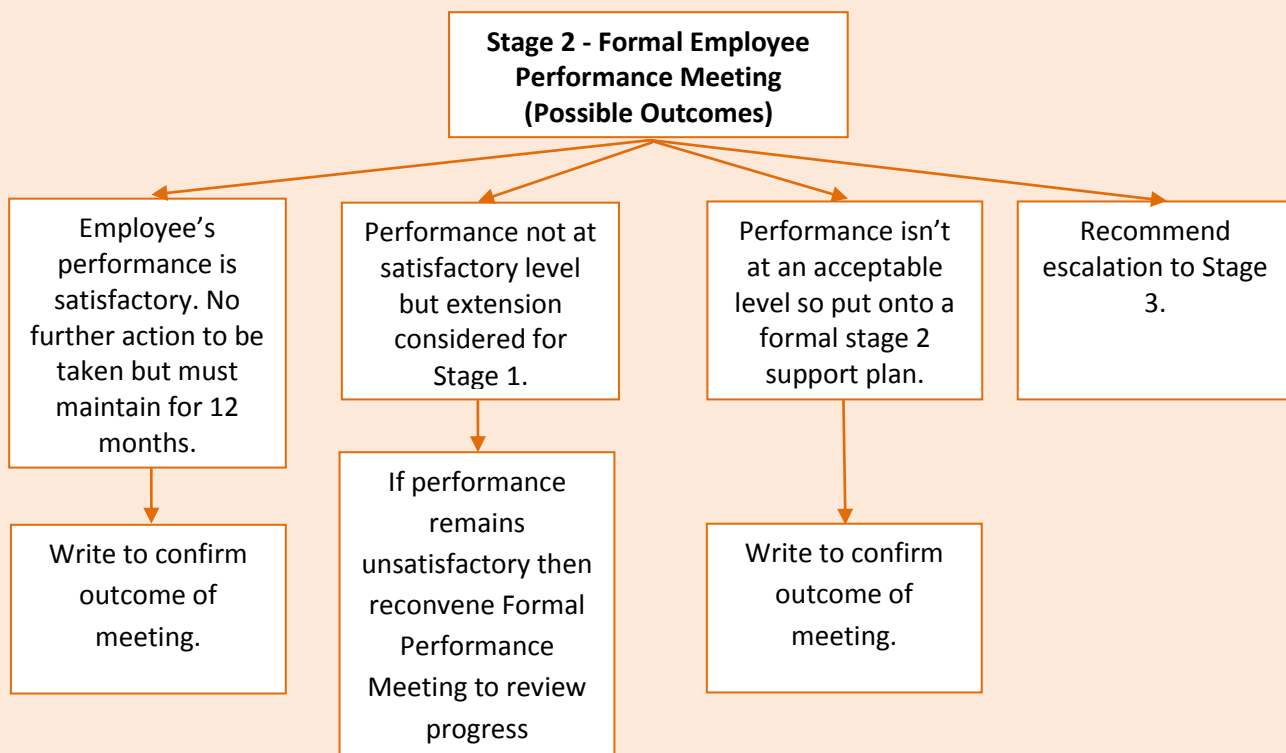
Stage 1 Informal Discussion;

- Where concerns about an employee's performance arise, the manager should discuss the matter with the employee without delay:



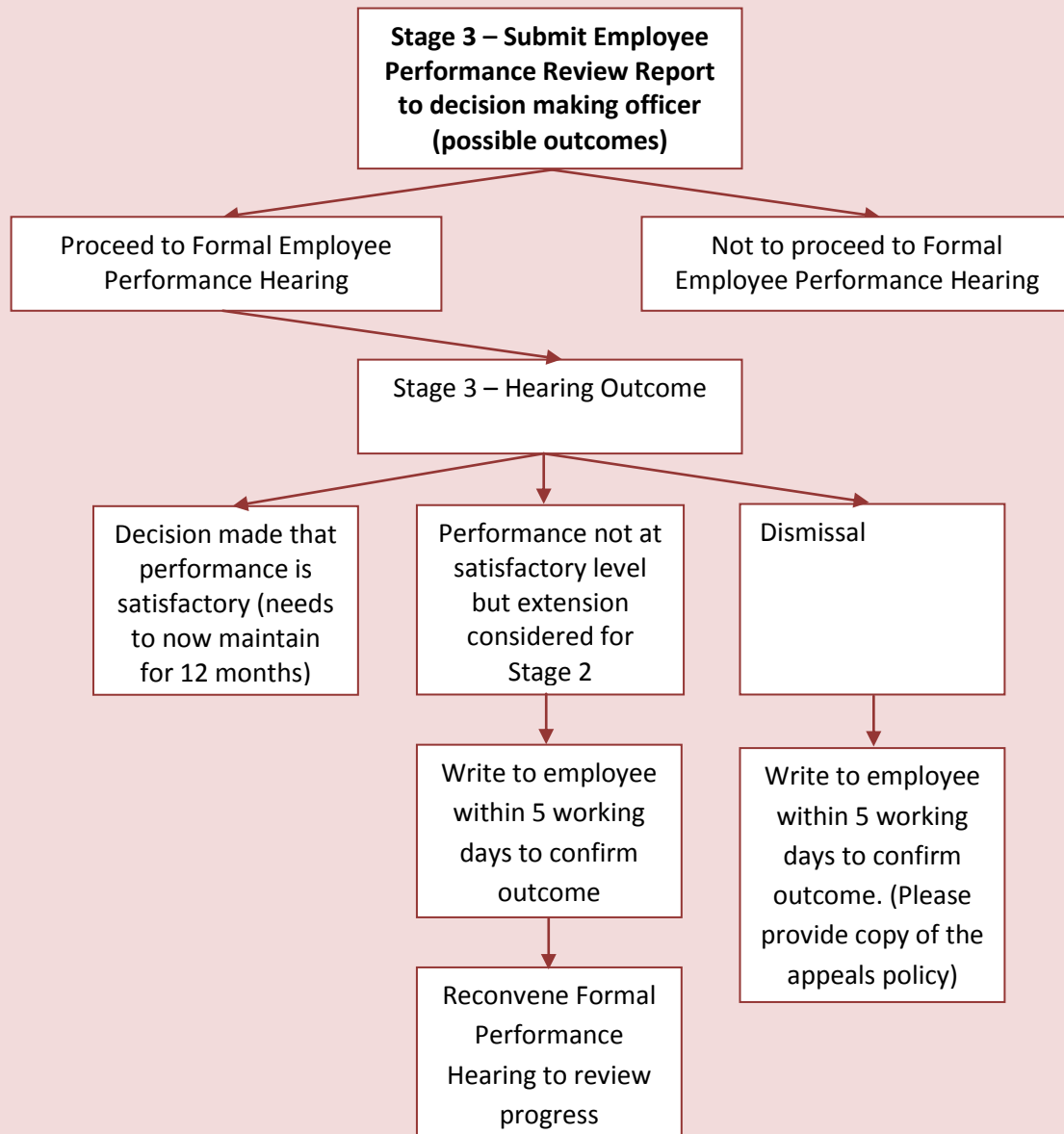
## Stage 2 Formal Stage;

- Stage 2 to be initiated for the following reasons:
  - Has not been able to evidence necessary improvements
  - Has not sustained performance to an acceptable level
  - Apparent that the employee's performance issues are sufficiently serious to justify escalation



Stage 3 Formal Employee Performance Hearing;

- Where the employee's performance continues to be unsatisfactory, and as a result dismissal is being considered, the manager will seek the agreement of a decision maker for the case to be considered at a Formal Employee Performance Hearing.



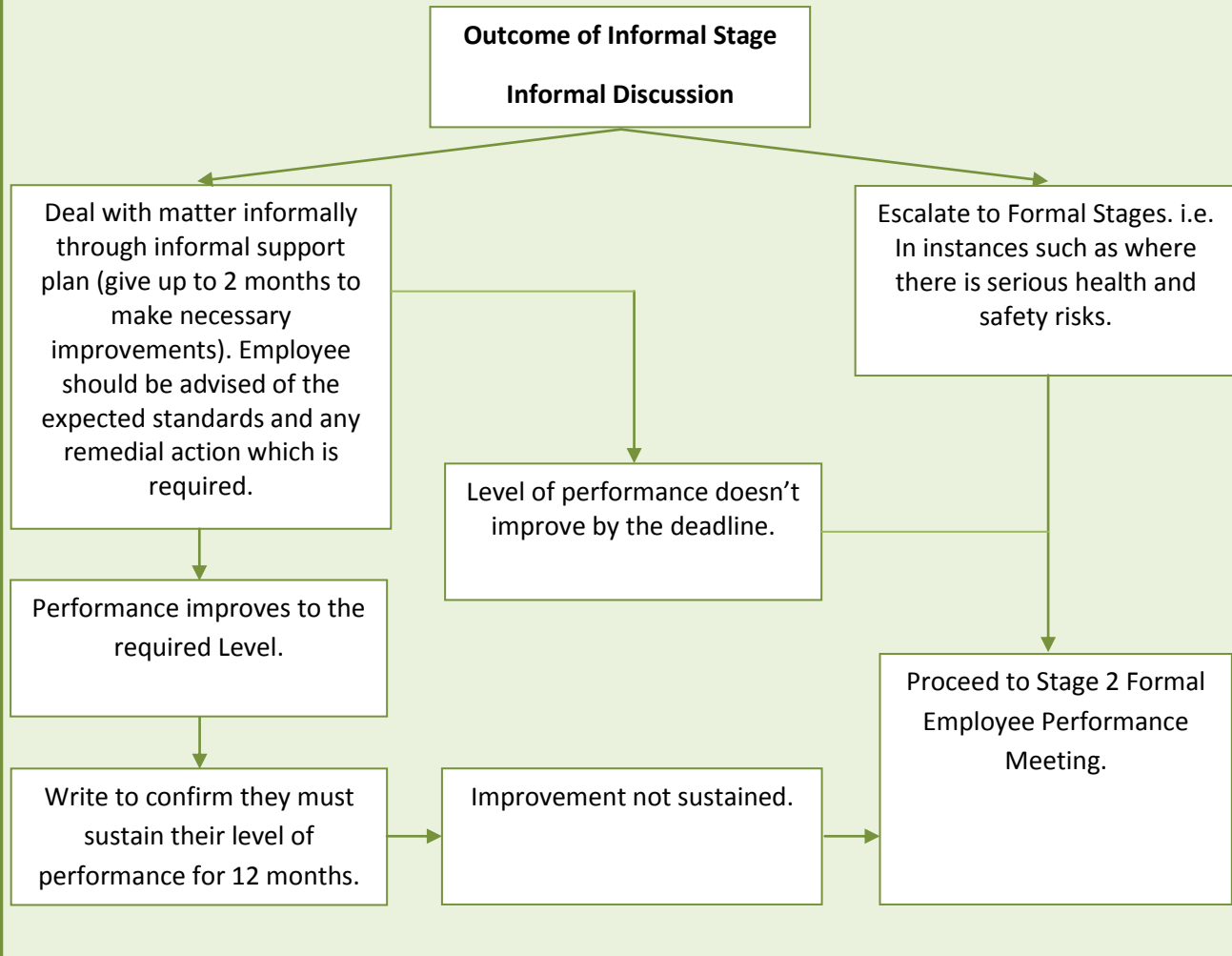


# Managing Employee Performance for Chief Officers

## Concerns related to performance

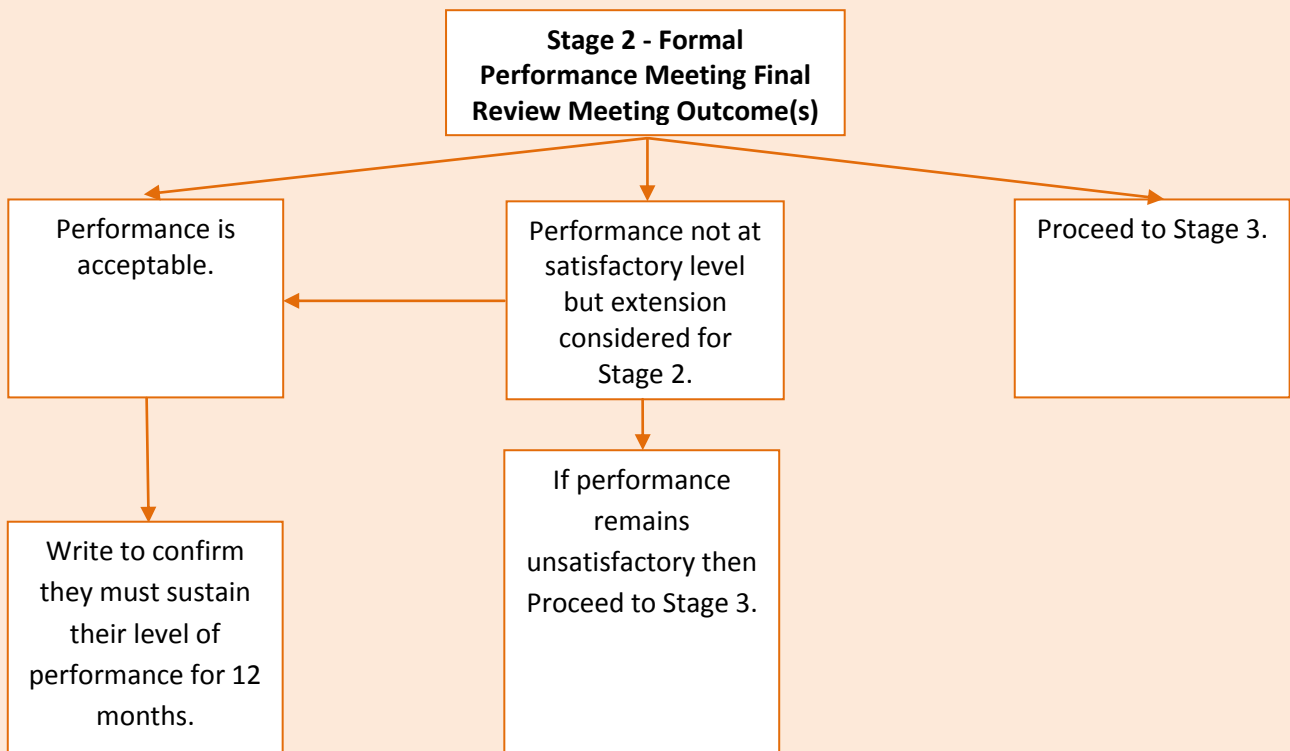
### Stage 1 Informal Discussion;

- Where concerns about an employee's performance arise, the manager should discuss the matter with the employee without delay:



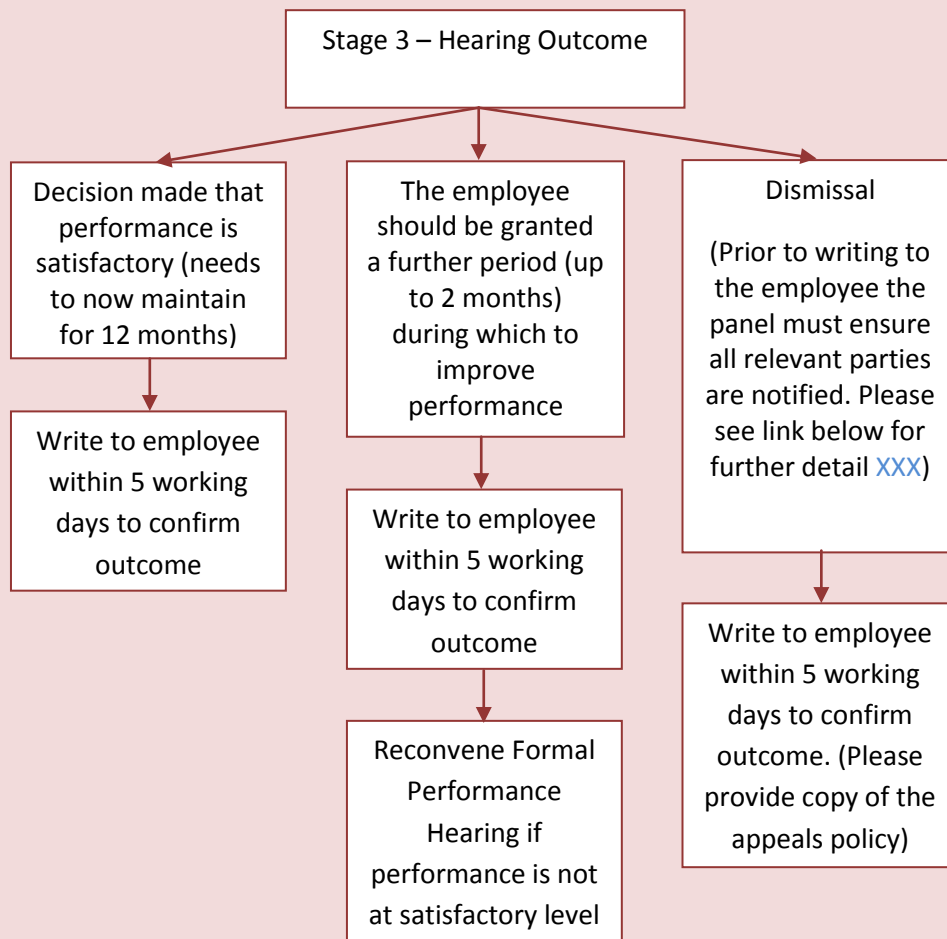
## Stage 2 Formal Stage;

- Stage 2 to be initiated where:
  - Stage 1 does not lead to a satisfactory improvement in the employee's performance or there is a serious health and safety risk or where it is otherwise considered appropriate, the employee will be invited to a formal performance meeting. In this meeting a formal performance support plan will be drafted.



### Stage 3 Formal Employee Performance Hearing;

- A Managing Employee Performance hearing will be arranged to consider the employee's performance. The panel for JNC staff up to and including Heads of Service will include a Head of Service and a Strategic Director or 2 Strategic Directors, with no prior involvement in the case, plus a HR Manager. For cases relating to a Strategic Director who is not a Statutory Officer, the panel, appointed by the Personnel Committee, will consist of five elected members (with a quorum of three) with no prior involvement in the case.

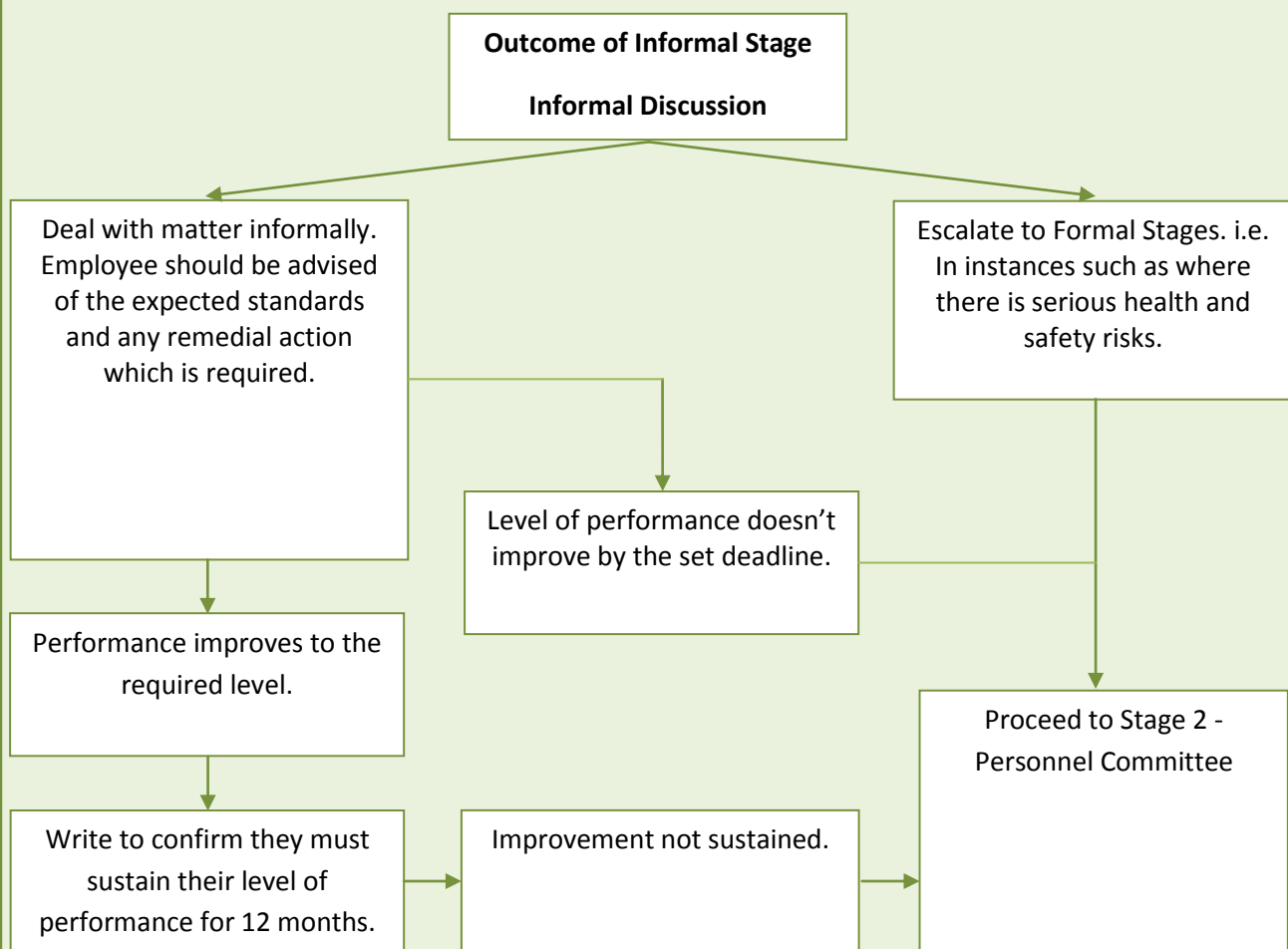


# Managing Employee Performance for Head of Paid Service, Monitoring Officer and Chief Finance Officer

The following variations to the Employee Performance Procedure for Chief Officers will apply where the subject of the underperformance is the Head of Paid Service (i.e. the Chief Executive), the Monitoring Officer (i.e. the Head of Strategic Support) or the Chief Finance Officer (i.e. the Strategic Director for Corporate Resources).

## Stage 1 Informal Discussion;

- If the employee concerned is the Chief Executive, an appropriate person will be appointed by the Leader (or Deputy Leader in their absence) to undertake this stage of the procedure. For the other two posts, the Chief Executive will undertake this stage as the manager of the post holders:

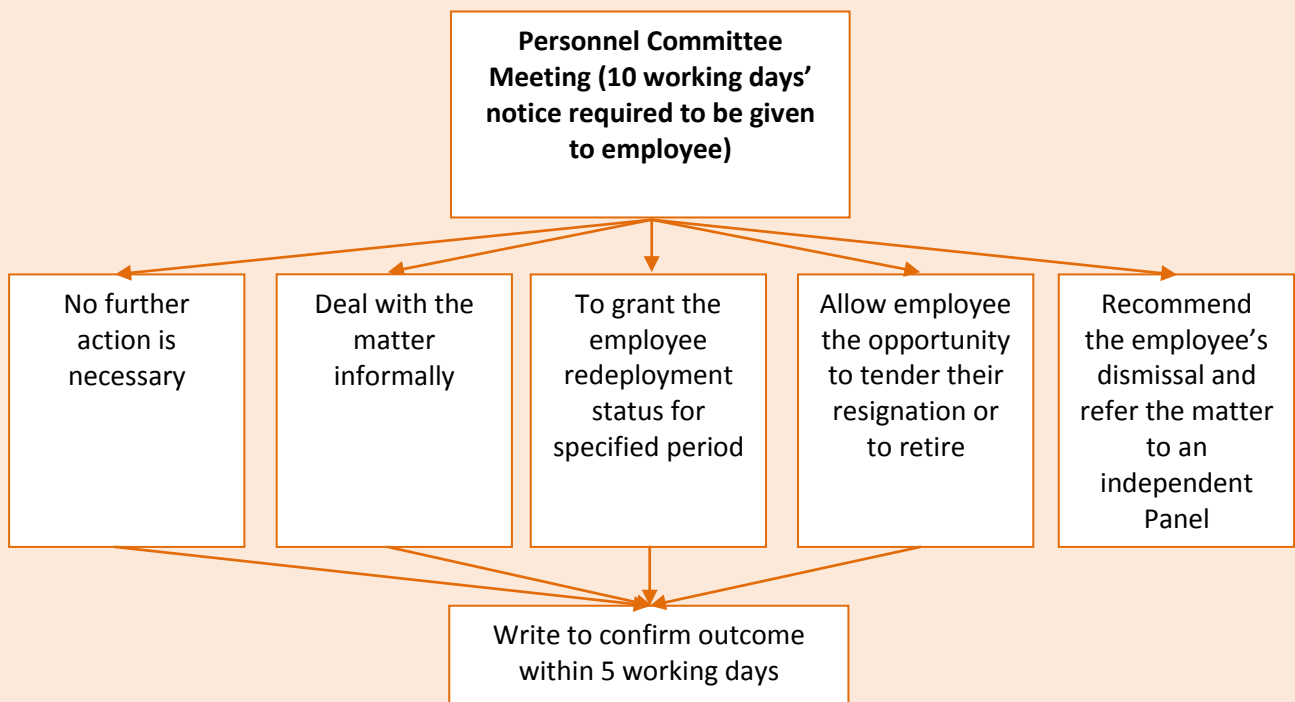


Stage 2 Personnel Committee;

- Stage 2 to be initiated where:

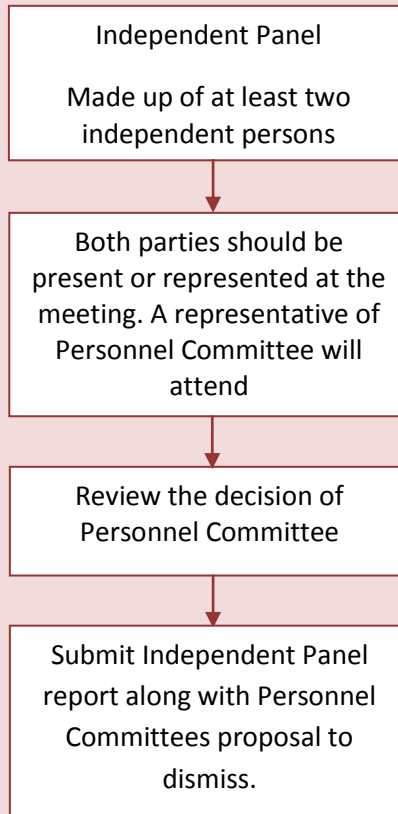
Stage 1 does not lead to a satisfactory improvement in the employee's performance and therefore dismissal is a possibility.

- A meeting of the Personnel Committee will be arranged to consider what action, if any, is appropriate. The Committee must include at least one member of the Cabinet.



Stage 3 The Independent Panel;

- Stage 3 to be initiated where the Personnel Committee recommends the dismissal of the employee.



Stage 4 Full Council;

- Full Council will meet to consider the proposal to dismiss the employee.

