



Doing our best to achieve our best

Clarendon Primary School, Nursery & Family Centre

Capability Policy and Procedures for Support Staff

Note on delegation of power to dismiss:

This procedure assumes that the power to dismiss staff remains with the Governing Body and has not been delegated to the Headteacher.

Policy Scope and Purpose	
Scope and Purpose:	This policy outlines the school's approach to managing underperformance, once it has been established that this is due to an employee's performance capability in their job role, which is not associated with reasons related to either their conduct or medical condition.
Aims and Objectives	<p>Our policy objectives are to ensure that:</p> <ul style="list-style-type: none"> • We treat employees in a fair and consistent manner. • We support managers to fulfil their responsibility to maintain high standards of employee performance. • We support employees to improve their performance to satisfactory standards wherever necessary and practicable. • We manage issues swiftly and effectively. • We protect the school, its employees, clients, the public, and recipients of school services from the consequences of poor performance.
Start point of the Policy:	When an employee's work performance is unsatisfactory, potentially due to a lack of capability in their job role.
End Point of the Policy:	<p>The outcome may be one of the following:</p> <ul style="list-style-type: none"> • That work performance has reached a satisfactory level during the informal or formal procedure; however, employees may return to the policy at the point they left if performance deteriorates. • It may end when it is identified that another policy or procedure is more appropriate e.g. sickness absence policy. • Dismissal if work performance fails to reach a satisfactory standard by within the timescales of the formal procedure.
Legislative requirements:	The law on unfair dismissal requires employers to act reasonably. What is classed as reasonable behaviour will depend on the circumstances of each case. However, the core principles are set out in the Acas Code of Practice on disciplinary and grievance procedures (which apply equally to performance improvement/capability procedures) and its accompanying Acas guide to discipline and grievances at work which are adhered to in this policy and procedure.
Who uses this Policy:	<ul style="list-style-type: none"> • This policy applies to all support staff including employees on Surrey Pay terms and conditions of employment at the school except those who are within their probationary period of employment. • This procedure assumes that the power to dismiss staff remains with the governing body and has not been delegated to the head teacher.
Roles and Responsibilities:	<ul style="list-style-type: none"> • The Governing Body, Head Teachers and Line Managers are responsible for implementing the policy in a fair and consistent manner. • All employees will be responsible for engaging with and adhering to this policy and procedures. • Trade Unions will be consulted regarding the content of the policy and will be reasonably available to support and represent their members. • The School's Human Resource service provider will be responsible for providing guidance and direction. • We expect all parties to apply the policy fairly.

1. Policy Statement

This policy and its procedures have been designed to help and encourage all school employees to achieve and maintain the highest possible standards of performance. It clarifies the rights and responsibilities of management, employees, and trade unions in respect of these standards and sets out the procedure for managers to follow when dealing with issues of poor performance resulting either from insufficient skills, abilities, competencies, or knowledge.

The procedure within this policy document should be adopted where performance levels fall below what is expected of an individual within their role and where improvements in performance are not achieved through regular one-to-one feedback sessions and quarterly/termly performance conversations, which is where goal setting, career aspirations and development needs are discussed. Concerns regarding under-performance should always be addressed as soon as practically possible and form part of everyday good management practice.

2. Equality Impact – Ensuring a Fair Process

Equality is not about treating everyone the same; equality is about valuing a person as an equal regardless of their characteristics and treating people according to their needs to achieve a fair outcome. Line managers are responsible for having an Equality, Diversity, and Inclusion (EDI) discussion with their employee at the earliest stage possible, to understand if equalities issues could be a contributing factor and to understand if anything could be considered to enable the employee to fully participate in a process. Equalities issues could include but are not limited to disabilities or long-term health conditions (including undiagnosed), religious or cultural needs or caring responsibilities. Adjustments to the process could include but are not limited to engaging speech, language, or hearing impairment interpreters, modifying access to or the location of meetings, providing specialist, or modified equipment.

It may also be appropriate to check in from time to time to ensure any measures put in place are fit for purpose and likewise an employee should notify their line manager of any changes in their circumstances.

It is the responsibility of all parties, including internal and external investigators, to ask anyone they need to speak to or take a statement from in connection with a process (for example witnesses) whether any adjustments need to be made to ensure that they can participate in the process without disadvantage.

Additional advice and support can be sought from My HR Helpdesk, Trade Unions, or the School's HR Provider.

3. Using the Performance Improvement Policy and Procedure

This policy and procedure will only apply in cases of performance capability, where the employee is unable to perform work which is expected as part of their job role to a required standard due to insufficient skill level, ability, competence, or knowledge.

Where an employee's poor performance is related to a disability under the Equality Act 2010, then requirements of the Act will require the school to make reasonable adjustments in the workplace and reasonable adjustments to the job. These adjustments could include changes such as altered hours, amended duties or workplace adaptations, all of which are designed to remove or reduce any disadvantages encountered by the disabled employee in the workplace. (Please see Appendix A for further details.)

In circumstances where there are concerns about the capability of an employee arising due to sickness absence, this should be managed using the school's Absence Management Policy and Procedure.

Where an employee's poor performance is believed to be the result of deliberate negligence or misconduct, or where serious errors have been made by them to the detriment of the school, managers should use the School's Disciplinary Policy and Procedure.

This capability Policy and Procedure allows for a formal approach to be taken to address issues of performance. Implementation of this policy and its procedures should not be seen as a forerunner

to dismissal, although there may be instances where ultimately dismissal is applied due to no improvement.

Under this policy, it is important that an employee is given adequate time in which to demonstrate improved performance before further action is taken. However, where an employee's unsatisfactory performance is sufficiently serious, for example in cases where the employee's actions have had or are liable to have a serious or harmful impact on the School, there is the potential for a performance concern to progress straight to the formal stages of this procedure.

Appendix A details how the procedure can be adapted if the performance capability issues are related to ill-health.

4. Guiding Principles

The following guiding principles underpin the Capability Policy and should be observed to maximise overall benefit for the School and its employees:

- Issues of underperformance should be dealt with quickly and fairly.
- Minor concerns about performance should be addressed during regular one to-one meetings, feedback sessions and performance conversations. This policy and procedure should be used when improvements cannot be achieved in this way.
- Employees should be provided with the contact details for Employee Assistance support services at the earliest possible opportunity (in the first written communication).
- Employees should be encouraged to contact their trade union representative (in the first written communication).
- Except in cases of gross incompetence, employees will be supported to improve their performance.

5. Employee Support

Employee wellbeing is our priority. All employees subject to the capability procedure should be offered the support of the Employee Assistance Programme for additional support. Members of a trade union have the right to request a trade union representative's attendance at formal meetings, non-members may wish to ask a work colleague to accompany them.

A Stress Risk Assessment for the employee should be carried out where stress is identified as a concern either by the employer or employee.

A referral to Occupational Health should be considered where appropriate. Reasonable Workplace Adjustments may need to be considered to enable the process see Section 2 above).

6. Managing Performance – The Informal Stage

Performance issues should be identified as early as possible, and the line manager should take steps to resolve these issues by providing or arranging support and/or training to enable the employee to meet the standards required. In schools, depending on size and structure, the informal stage may be led by the Headteacher, but it may be more appropriate for another senior teacher (for example deputy headteacher) to take on this role.

The line manager should gather examples and evidence to highlight where the employee's performance is falling short. A private meeting should be arranged by the line manager to discuss the performance issue(s) and, with the employee to find solutions and agree a way forward. The employee should be informed in writing that this is the informal stage and that it is a supportive process. During the meeting the line manager should ensure that the employee understands what aspects of their performance need to improve; should try to ascertain whether the employee is experiencing any problems that are hindering their performance and the reasons for them (including any external factors such as ill-health or personal circumstances) and should discuss what measures might be helpful in supporting the employee to reach the required standards. These might include:

- Training, retraining or development.

- Referral, where appropriate, to Occupational Health (where health issues are of concern).
- Undertaking a stress risk assessment, where stress is identified as a concern by the manager or employee.
- Mentoring or coaching.
- Closer supervision for a limited period.
- Temporary alterations to duties, which do not change the job, but allow the employee to develop at a slower pace.
- Ensuring a manageable workload.

The manager and employee can together discuss drawing up a Performance Improvement Plan (PIP) which is a supportive measure to help the employee to improve their performance. Where made, a referral to Occupational Health need not delay the drawing up of a PIP. In most cases it will be possible to identify some support measures prior to receiving recommendations resulting from the Occupational Health referral. Additional, reasonable recommendations for support measures coming out of an Occupational Health referral can be added into the PIP once received, discussed, and agreed with the employee.

The purpose of the PIP is to document the current performance issue, establish what is expected and then mutually agree targets and objectives, which need to be actioned by the employee to achieve or exceed the required levels of performance. The targets/objectives should be clear and achievable. The PIP will also define the measures the school will take to support the employee in achieving those targets/objectives. Realistic timelines to achieve the targets/objectives (normally 1 to 2 months) will be set against each area of improvement.

Throughout the duration of the PIP, regular meetings will be set between the employee and their manager to monitor progress. The PIP will be for a minimum period of 1 month and up to a maximum of 2 months dependent upon the nature of the under-performance and any support in place. At the end of the period, where an employee has shown measured improvement in some areas but has not met the required performance standard overall, the review period may be extended. This should be for no longer than 1 month, where there has already been a 2-month review period.

The employee must be informed that if they are unable to improve their performance and meet the performance standards set out in the PIP over the timescales agreed, the manager will move to the formal performance improvement procedure.

7. Formal Procedure

The School is committed to supporting all employees with their performance. Where an employee has not successfully met the requirements of their PIP and has been unable to meet the required acceptable standards of performance for the role, the employee will be invited to a formal stage 1 performance improvement meeting. The purpose of this meeting will be to discuss the employee's performance and decide what additional measures should be taken to help the employee to improve their performance to the required acceptable level.

An employee should inform their line of any reasonable adjustments that may be required during the process.

The employee will be informed in writing of the formal meeting, with at least 5 days' notice of the meeting date. The invitation letter will detail the points for consideration and inform the employee of their right to bring a trade union representative or work colleague with them to the performance improvement meeting.

The same will apply for any additional formal performance improvement meetings or hearings.

In cases of more serious performance issues, but short of gross incompetence, the manager can recommend commencing the formal procedure at stage 2.

7.1 Formal Stage 1

7.1.1 Performance Improvement Meeting

The formal stage 1 performance improvement meeting will be led by the employee's line manager. In schools, the formal stage 1 will be led by the person who led the informal process.

At the stage 1 performance improvement meeting the manager will:

- Outline the shortfall between the employee's performance and the standards required.
- Explain the issues the unsatisfactory performance is causing.
- Explore the causes of the employee's poor work performance and how these can be overcome.
- Review the assistance already provided and consider what further support and development is needed to assist the employee.

At the meeting, the employee will be given an opportunity to ask questions, comment on the issues and put forward any explanation they may have for the matters identified by their manager as amounting to poor performance.

After the meeting, the manager will review all the evidence and decide what action to take.

Outcomes of the meeting may be a decision to:

- Instigate a monitoring period and together with the employee will draw up a further Performance Improvement Plan (PIP) which, depending on the shortfalls in performance, can be implemented for a period 1 to 2 months. The PIP should link to and reference the informal PIP that was put in place at the informal stage.
- Refer the matter for investigation under the disciplinary procedure if the line manager has evidence that the poor performance is because of deliberate negligence or wilful poor performance.
- Make a referral to Occupational Health (where performance capability issues may be due to a disability or health condition). Please see Appendix A for further guidance on performance issues related to Health.
- Take no further action.

Where made, a referral to Occupational Health need not delay the drawing up of a PIP. In most cases it will be possible to identify some support measures prior to receiving recommendations resulting from the Occupational Health referral. Additional, reasonable recommendations for support measures coming out of an Occupational Health referral can be added into the PIP once received, discussed, and agreed with the employee.

Within 5 working days, the manager will write to the employee to confirm the decision and, if applicable, confirm details of the PIP. Where a PIP and monitoring period have been set up, the letter will make clear the nature of the improvement that is required in the employee's performance and the timescale for making these improvements and will advise that failure to improve performance within agreed timescales may result in the employee moving to stage 2 of the formal performance improvement procedure. The letter will constitute a notice to improve and will remain on the employee's file for 12 months. The employee should be notified in the letter of their right of appeal.

The manager will monitor the employee's performance and provide regular feedback during the monitoring period by holding progress review meetings.

Before the monitoring period is due to end the employee will be invited, in writing to a stage 1 performance improvement review meeting. The manager will prepare a progress report, which will be discussed at the formal stage 1 performance improvement review meeting.

The formal procedures as set out in [section 7](#) of this policy will apply to all future formal meetings.

7.1.2 Review Meeting and Potential Outcomes

The purpose of the review meeting is to consider and discuss the report the line manager will have prepared on the individual's progress against the agreed targets and objectives.

From the discussions held in the review meeting the line manager will be able to ascertain if sufficient improvement in performance has been achieved.

The potential outcomes of the stage 1 performance improvement review meeting include:

Successfully achieving satisfactory standards of performance required for the role.

If this is the case the line manager will confirm, in writing within 5 working days, that no further action is required, and the formal process ends at this point. Regular one to-ones and performance conversations will resume. If the standard of performance or capability falls below the required standards at any stage during the 12 months following the date of the notice to improve, the line manager may decide to initiate stage 2 of the procedure.

Failing to reach satisfactory standards of performance required for the role.

If this is the case, the manager will confirm, in writing within 5 working days one of the following outcomes:

- If there has been sustained improvement, but the employee is not yet meeting satisfactory standards of performance, the PIP may be extended and/or amended and run for a further 1 month. In this case, a further stage 1 performance improvement review meeting will be held at the end of that extended review period.
- If there has been no or insufficient improvement in performance the employee should be advised that the case will be progressed to a stage 2 performance improvement meeting. If this is the case, the manager will confirm, in writing within 5 working days that the employee has failed to reach satisfactory standards of performance as required for the role and will inform the employee of progress to a stage 2 improvement meeting. The invitation letter will confirm the manager's continued concerns, detail the points for consideration and inform the employee of their right to bring a trade union representative or work colleague with them to the meeting.

7.2 Formal Stage 2

7.2.1 Performance Improvement Meeting

In schools, the formal stage 2 performance improvement will normally be led by the Headteacher, unless they have been involved in the process, or by one or more of the governors.

At the stage 2 performance improvement meeting the manager will outline the areas of performance that are continuing to cause concern and reiterate the standards required. The manager will:

- Explain the impact of the continued unsatisfactory performance.
- Explore the causes of the employee's poor work performance and how these can be overcome.
- Review the assistance already provided and consider whether there is any further reasonable support and development that could be provided to assist the employee.

At the meeting, the employee will be given an opportunity to ask questions, comment on the issues and put forward any explanation they may have for the matters identified by their manager as amounting to poor performance.

After the meeting, the manager will review all the evidence and decide what action to take.

Outcomes of the meeting may be a decision to:

- Instigate a further monitoring period, normally of up to 1 month. The PIP that was set up at stage 1 may be amended or adjusted with an agreed action plan for this further period. However, it may be concluded that no amendments or adjustments to the PIP are needed as all reasonable steps have been taken and all reasonable support given that should have allowed the employee to perform to an acceptable standard.
- Refer the matter for investigation under the disciplinary procedure if the line manager has reason to believe that the poor performance is because of deliberate negligence or wilful poor performance.

- Make a referral to Occupational Health (where capability issues may be due to a disability or health condition). Please see Appendix A for further guidance on performance issues related to Health.
- Take no further action.

Where made, a referral to Occupational Health need not delay the drawing up of a PIP. In most cases it will be possible to identify some support measures prior to receiving recommendations resulting from the Occupational Health referral. Additional, reasonable recommendations for support measures coming out of an Occupational Health referral can be added into the PIP once received, discussed, and agreed with the employee.

Within 5 working days, the manager will write to the employee to confirm the decision. Where a further monitoring period (which should normally be no longer than 1 month) has been set up, the letter will make clear the nature of the improvement that is required in the employee's performance and the timescale for making these improvements. It will advise that if the necessary improvements do not take place, the case will be progressed to a capability hearing and that one potential outcome of that hearing might be the employee's dismissal from the school. It should also notify the employee of their right of appeal. The letter will constitute a final stage notice to improve and will remain on the employee's file for 12 months.

The manager will monitor the employee's performance and provide regular feedback during the monitoring period.

Before the monitoring period is due to end the employee will be invited, in writing to a stage 2 performance improvement review meeting. The manager will prepare a report, which will be discussed at the formal stage 2 performance improvement review meeting.

7.2.2 Review Meeting and Potential Outcomes

The purpose of the review meeting is to consider and discuss the report the line manager will have prepared on the individual's performance and progress against the agreed targets and objectives.

From the discussions held in the review meeting the line manager will be able to ascertain if sufficient improvement in performance has been achieved.

The potential outcomes of the performance improvement review meeting include:

Successfully achieving satisfactory standards of performance required for the role.

If this is the case the line manager will confirm, in writing within 5 working days, that no further action is required, and the formal process ends at this point. Regular one-to-ones and performance conversations will resume. If the standard of performance or capability falls below the required standards within 12 months from the date of the final notice to improve, the employee will be asked to attend a capability hearing.

Failing to reach satisfactory standards of performance required for the role.

If this is the case, the manager will confirm in writing that the case will be progressed to a capability hearing and that one potential outcome of that hearing might be their dismissal from the school.

7.3 Capability Hearing

The employee will be invited, in writing to attend a capability hearing, which will be chaired by a panel of Governors.

The employee will be given 5 working days' notice of the meeting in writing and informed of their right to be accompanied by a trade union representative or colleague. The employee will be issued

with copies of the documents that will be referred to within the hearing. Within the invitation letter the employee will be notified that one of the potential outcomes of the hearing could be that they are dismissed from the school's service.

At the meeting, the manager will discuss the areas of concern. The employee will have the opportunity to respond.

7.3.1 Capability Hearing Potential Outcomes

Where the Chair decides that the level of performance is such that the employee can no longer fulfil the requirements of the job, they can:

- Dismiss the employee from the current role but seek to find suitable alternative work during the notice period. This will only apply in extenuating circumstances, for example where an employee was promoted beyond their capability but performed exceptionally in their previous role. Where a suitable alternative role is found and an offer to redeploy is made, the employee is free to refuse the offer.
- Dismiss the employee without recourse to seeking alternative employment. Any dismissal will be with notice or with payment in lieu of notice if the contract of employment allows.

In exceptional circumstances and having heard all the evidence, the chair can instead decide to instigate a final, short monitoring period and review.

The decision of the Chair should be communicated to the employee in writing within 5 working days of the meeting. The employee should be notified of their right of appeal against dismissal in that letter.

Where there is an obligation to inform a Professional Body, the employee should be notified in writing and the referral completed in a timely manner.

8 Gross Incompetence

In exceptional cases, there is the potential for a performance concern to progress straight to a capability hearing, without the requirement to undertake the informal stage and formal stage 1 and 2 meetings. This will only apply in cases of gross incompetence that potentially give grounds for summary dismissal, even if the actions are not resulting from deliberate negligence or misconduct. In this situation, the normal process for arranging and inviting an employee to the formal capability hearing will apply.

9 Appeals

9.1 Appeals against notices to improve

Employees have the right to appeal against a decision to issue a first or final stage notice to improve their performance; however, the appeal must be based on one of the following specific grounds:

- That there was a defect in the procedure applied.
- That new evidence has emerged, that was not known at the time of the meeting or hearing, which may have materially changed the outcome of that meeting or hearing.

If the employee wishes to exercise their right of appeal, they must do so in writing (by email or letter) to an appropriate senior manager within 5 working days of being notified of the decision. Their email or letter must outline their grounds for appeal, providing the rationale or evidence in respect of the grounds.

The appeal will normally be considered by a more senior-level manager than the manager who issued the notice to improve. If the appeal is based on one of the specific grounds, an appeal hearing will be convened.

The employee will have the right to be accompanied at an appeal hearing by a colleague or trade union official.

A decision will normally be given verbally and confirmed in writing within five working days of the appeal hearing. The decision of the chair is final.

9.2 Appeals against dismissal or redeployment

Employees have the right to appeal against a decision to dismiss or to offer redeployment. Appeals against dismissal or redeployment can be made on the following grounds:

- That there was a defect in the procedure applied.
- That new evidence has emerged, that was not known at the time of the hearing, which may have materially changed the outcome of that hearing.
- That the decision was too severe.
- That mitigating circumstances were not fully considered when determining the outcome.
- That not all relevant evidence was considered.

If the employee wishes to exercise their right of appeal, they must do so in writing (by email or letter) to the clerk to governors within 10 working days of being notified of the decision. Their email or letter must outline their grounds for appeal, providing the rationale or evidence in respect of the grounds.

The appeal will normally be heard by panel of governors who has not previously been involved in the proceedings. In schools, the appeal should be lodged with the clerk to the governors.

The employee will have the right to be accompanied at an appeal meeting by a colleague or trade union official.

A decision will normally be given verbally and confirmed in writing within five working days of the appeal hearing. The decision of the chair is final.

10 Remote Proceedings

Wherever possible, meetings under the absence management procedure will be held face-to-face. Where it is not possible, we will conduct the process remotely. We will ensure that employees and their representatives have access to the necessary technology for participating. We will ensure that the procedure remains fair and reasonable.

11 Recording Meetings

We will take a written record of all meetings conducted under the absence management procedure. This will be done either by the person holding the meeting or by an additional person arranged by us to take notes.

Neither the employee nor any person acting on their behalf is normally permitted to record electronically any meeting that we hold under the absence management procedure. This is to encourage openness and full participation. Any breach of this provision may lead to further disciplinary action, which could include dismissal.

In certain limited circumstances, we may permit a meeting to be recorded electronically, for example where it is a reasonable adjustment for an employee with a disability. [Where the school permits a meeting to be recorded electronically, they will take responsibility for making the recording.]

Where the school intends to record meetings held remotely, we will comply with our data protection obligations and obtain prior consent from all attendees.

12 Grievances

If an employee has a concern relating directly to the instigation or application of the performance improvement process, there is opportunity within the process for the concern to be raised. It is not necessary for the employee to raise a grievance through the grievance procedure.

In most cases the concern will be considered and addressed as part of the performance improvement process, and the process will not normally be paused to hear the concern separately.

Depending on the concern being raised there may be occasions when the performance improvement process is paused at the discretion of the school whilst the concern is heard separately through the grievance procedure. For example, in some cases of alleged discrimination in the application of the performance improvement process. If such allegation is made the manager hearing the grievance can consider if the performance improvement process will continue.

If an employee has a concern during the performance improvement process that is unrelated to the instigation or application of that process their concern will be addressed separately. The proceedings of the performance improvement process and the proceedings of the grievance procedure will run independently and, to ensure that the concern is dealt with fairly and promptly, may run concurrently.

In all cases a judgement should be made on the most appropriate way of handling the two issues without unreasonable delay; it is rare that it will be necessary to postpone formal performance improvement proceedings to deal with other concerns raised. HR advice should be sought if the appropriate course of action is unclear.

13 Partnership working

If the employee is working across organisations and/ or as part of an integrated team, it is the policy of their employer which will apply and should be followed in managing a performance improvement process. The Manager does not have to be employed by the same employer and advice can be sought from the HR helpdesk (or the school's HR provider) for specific cases where this situation applies.

Managers from partner organisations will be expected to implement this policy and associated procedure when they are managing Surrey County Council School employees, with support from HR.

If the employee is not wholly employed by one employer, advice should be sought from the relevant HR teams for both employers to identify and agree how the underperformance should be managed across the organisations. Please note, this is in relation to employment status and not how the post is being funded.

Policy review

Reviewed:	Spring Term 2024
Date for review:	Spring Term 2027

Appendix A

Performance Capability issues related to health

If a member of staff has performance issues that are related to a disability or longterm health condition, but where the employee is fit to come to and remain in work, the performance issues should be managed under the Capability Policy and Procedure. However, managers should ensure that they:

- Investigate the medical facts, referring to any fit notes or specialist reports provided.
- Undertake a stress risk assessment, where stress is identified as a concern by the manager or employee.
- Consult with the employee about workplace adjustments, exploring all possible options and having regard to any requests made by the employee.
- Seek specialist advice from Occupational Health, to help identify what adjustments can be made specifically in the context of the employee's job role.
- Explore all reasonable adjustments to support the employee in their job role, such as flexible working arrangements and adapting the workplace to minimise any disadvantage. Line Managers and employees may find it helpful to refer to the information provided on Accessing Reasonable Adjustments, Workplace Adjustments and Adjustments for disabled applicants and employees.
- Make decisions based on how practical the adjustments are to implement and whether the adjustments will be effective in overcoming or reducing any disadvantage and enabling the employee to reach the required standards of performance.

Where adjustments are implemented, the employee must be given sufficient time post implementation to show that they can do their job to the required standards with the adjustments in place.

In circumstances where there are no reasonable adjustments that can be made to support an employee in performing their job role to the required standard or where reasonable adjustments have been made, but the employee is still not able to carry out their job to the required standards, a decision may eventually be taken to offer redeployment to the employee or to dismiss. However, this decision can only be taken following a full and fair procedure and where all reasonable actions have been taken and support given.

Adapting the Formal Performance Improvement Procedure

If a performance issue that is health related cannot be resolved informally, the formal procedure should be implemented in accordance with the Capability Policy and Procedure, with the following additional points taken into consideration.

Formal Stage 1 Performance Improvement Meeting

At the meeting the manager will outline the shortfall between the employee's performance and the standards required and in addition, should discuss with the employee:

- The impact of the health or disability issue on the performance or service and any steps that have been taken to support the employee to date.
- Any specialist advice already available, for example GP or other medical professional's advice or Occupational Health advice.
- Identification of any further reasonable adjustments or support that would assist the employee.
- Whether a further referral to Occupational Health for advice is needed.

If any further support or adjustments can be agreed, they should be put in place and once in place a monitoring period set up with a date to review progress. The length of the monitoring period will depend upon the adjustments agreed but would typically be between 1 and 2 month and can be extended up to 3 months.

During the monitoring period, the manager should hold review meetings with the employee to assess the situation and consider next steps.

At the end of the monitoring period, if the reasonable adjustments and support have enabled the employee to meet satisfactory standards of performance, the formal process will end at this point, but informal monitoring can continue to ensure that the employee continues to be supported. Improvements in performance must be maintained to an acceptable level. If the standard of performance falls below the required standards within a 12-month period, then the employee may be asked to attend a formal stage 2 Performance Improvement Meeting.

If the reasonable adjustments and support have not enabled the employee to meet satisfactory standards of performance and the line manager continues to have concerns, the employee will be asked to attend a formal stage 2 meeting.

Formal Stage 2 Performance Improvement Meeting

The formal stage 2 performance improvement meeting should follow the same process as for stage 1 with a further monitoring period normally of up to 1 month.

At the end of the monitoring period, if the reasonable adjustments and support have enabled the employee to meet satisfactory standards of performance, the formal process will end at this point, but informal monitoring can continue to ensure that the employee continues to be supported. Improvements in performance must be maintained to an acceptable level. If the standard of performance falls below the required standards within a 12-month period, then the employee may be asked to attend a capability hearing.

If the reasonable adjustments and support have not enabled the employee to meet satisfactory standards of performance and the line manager continues to have concerns, the employee will be asked to attend a capability hearing.

Capability Hearing

At this meeting, the senior manager and employee will discuss the areas of performance that are continuing to cause concern; the steps that have been taken to seek advice; the specialist advice available; the adjustments that have been made or considered and any other support provided.

At the meeting, it may also be appropriate to discuss whether there is any suitable alternative work that might be available for the employee.

If it is found that an individual is no longer able to work in their job and there is no suitable alternative work or further reasonable adjustments possible to enable them to meet and sustain performance levels, but they are not considered permanently medically unfit for work, the senior manager may decide to dismiss on the grounds of capability due to ill health. HR advice must be taken before a decision is made to dismiss an employee whose performance/capability issues relate to their health.