



*Doing our best to achieve our best*

## **Clarendon Primary School and Nursery Performance Improvement Policy and Procedure – all staff**

### **1. Policy Statement**

This Performance Improvement Policy and Procedure outlines the school's approach to managing underperformance.

It should be read in conjunction with the Guide to Ensuring a Fair Process and Providing Employee Support. (See appendix 4.)

It should be used to support the effective management of performance. Its implementation should not be seen as a forerunner to dismissal, although there may be instances where ultimately dismissal is applied due to no improvement.

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.

This performance improvement procedure ensures 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 the procedure or in cases of alleged gross incompetence, to a formal capability hearing.

### **2. Policy Scope**

This policy & procedure applies to all Surrey County Council (SCC) employees on Surrey Pay; in the absence of national conditions, teachers and employees on different terms and conditions except those who are within their probationary period of employment (please see the Probation Policy).

### **3. When does the Performance Improvement Procedure apply?**

This performance improvement procedure applies 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.

It also applies to performance issues relating to a disability or long-term health condition, where the employee is at work and is not off sick or away from work for a reason connected with their disability or long-term health condition. Appendix 2 details how this procedure should be adapted where there are concerns about the capability of an employee arising due to a disability or long-term health condition.

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

### **4. Key Principles**

The following guiding principles underpin this policy and procedure and should be observed to maximise overall benefit for the school and its employees:

- We treat employees in a fair and consistent manner.

- We support managers to fulfil their responsibility to maintain high standards of employee performance.
- We improve employee performance wherever necessary and practicable.
- We manage performance issues swiftly and effectively.
- Except in cases of gross incompetence, we will support employees to improve their performance and give them adequate time to improve.
- We protect the school, its employees, clients, the public, and recipients of school services from the consequences of poor performance.

In the first written communication, we will:

- Provide employees with the contact details for [Employee Assistance](#) support services.
- Encourage employees to contact their trade union representative if they have one.

## **5. 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. Whilst this informal stage may be led by the Headteacher or deputy headteacher, it may be more appropriate for another senior teacher 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 with the employee to discuss the performance issue(s), to find solutions and to 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. This may 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.

### **5.1 Informal Performance Improvement Plan (PIP)**

Together, the manager and employee should draw up a 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 in writing 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. The employee must also be informed in writing that their pay progression increment will be paused until they have reached the required standards for the role (see section 12).

## **6. Managing Performance – The Formal Procedure**

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 manager (this will be the person who led the informal stage), 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.

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

## **7. Formal Stage 1**

### **7.1 Stage 1 Performance Improvement Meeting**

The formal stage 1 performance improvement meeting will be led by the employee's line manager. 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 of 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

As outlined in section 5.1, where made, a referral to Occupational Health need not delay the drawing up of a PIP and any 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 the timescale may result in the employee moving to stage 2 of the formal performance improvement procedure. The employee must be informed that their pay progression increment will be paused until they have reached the required standards for the role (see section 12). The letter will constitute a formal 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.

## **7.2 Stage 1 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 (the appraisal process for teachers) 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 performance 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.

## **8. Formal Stage 2**

### **8.1 Stage 2 Performance Improvement Meeting**

The formal stage 2 performance improvement meeting will be led by the employee's line manager or by the line manager's manager. This 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, has/is being given.
- 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.

As outlined in section 5.1, where made, a referral to Occupational Health need not delay the drawing up of a PIP and any 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. The employee must be informed that their pay progression increment will be paused until they have reached the required standards for the role (see section 12). The letter will also 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 formal 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.

## **8.2 Stage 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 (the appraisal process for teachers), 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.

**9. Capability Hearing**

The employee will be invited, in writing, to attend a capability hearing, which will be chaired by a manager more senior than the employee's line manager. This meeting will be chaired either by the Headteacher (assuming the power to dismiss has been delegated and they have had no prior involvement in the case), or a panel of Governors not previously involved in the case.

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.

**9.1 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 their 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 and statutory provisions allow for this. 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. The decision to dismiss teachers must be notified to the local authority, without delay, so that formal notice can be served within the statutory 14-day period.

**10. 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.

## **11. Appeals**

### **11.1 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 the headteacher 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.

### **11.2 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.

A separate panel of governors not involved in the original decision process would be convened to hear the appeal.

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.

## **12. Pausing Pay Progression Increments**

Where performance is below the required standards for the role, where the employee has a performance improvement plan in place and has been notified that this will affect their ability to earn a pay progression increment, their increment will normally be delayed until the required standards of performance are achieved.

On achieving the required standards of performance as outlined in the PIP, the pay increment will be implemented on and effective from the first of the month following the performance review meeting. It will not be backdated.

For further information on the procedure for pausing a pay progression increment, please see the school's Pay Policy.

An increase in pay as a consequence of the annual salary review will not be withheld.

### **13. Remote Proceedings**

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

### **14. Recording Meetings**

We will take a written record of all meetings conducted under this 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 Performance Improvement procedure. This is to encourage openness and full participation. Any breach of this provision may lead to 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 we permit a meeting to be recorded electronically, the school will take responsibility for making the recording.

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

### **15. 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 will be sought if the appropriate course of action is unclear.

### **16. Partnership Working**

If the employee is working across organisations, 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 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 employees (SCC), (school staff) with support from SCC management and /or HR.

If the employee is not wholly employed by one employer, advice will 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.

## **17. Safeguarding Concerns**

### **17.1 Safeguarding Procedures for employees working with children or vulnerable adults**

In cases involving serious allegations of incompetence against an employee who works in a position of trust with children or vulnerable adults, the relevant safeguarding team or LADO should be informed immediately by the manager and, if appropriate, a strategy or Allegations against Staff and Volunteers (ASV) meeting set up. There may be a requirement to pause the internal capability hearing pending enquiries by external agencies, for example, police or social services. If a safeguarding investigation needs to take place this is separate to the capability process.

### **17.2 Referral to the Disclosure and Barring Service (DBS)**

If an organisation removes an individual (paid worker or unpaid volunteer), from their employment with children or vulnerable adults (or would have, had the person not left first), because the person poses a risk of harm to adults and/or children, the organisation has a legal duty to make a referral to the Disclosure and Barring Service. It is an offence to fail to make a referral without good reason. Referrals should be made promptly once employment has ended and should be supported by any relevant evidence, and the employee should be informed in writing, usually at the point a decision to dismiss is notified, or the employee's resignation is acknowledged. The Headteacher, in consultation with HR, is responsible for making any such referrals and ensuring they are made in good time. In cases where referral to the DBS is likely to be necessary, particular care needs to be taken to ensure good records are kept of the capability evidence.

## **18. Professional Bodies**

### **18.1 Adherence to Professional Standards**

The school requires employees in registered professions, such as teaching, to adhere to the standards of professional practice set out by the profession and to their relevant codes of professional conduct. Contravention of professional codes, standards, practice, laws, or rules may be regarded as a capability issue and may lead to action being taken under the school's performance improvement policy or relevant performance capability procedures relevant to the profession.

### **18.2 Referral to Professional Bodies**

Where performance concerns are of a sufficiently serious nature (gross incompetence), or if they raise significant risks, the school may be required to refer the case to the employee's professional body in line with its requirements. The employee will in all cases be informed that a referral will be made and may also wish to consider referring themselves where this is appropriate.

Where a professional body suspends, removes, or places conditions on an employee's professional registration, and this impacts on their role, the school may need to take further action.

## **19. Teacher References**

If a teacher has been subject to formal capability procedures in the previous two years, as stated in The School Staffing (England) (Amendment) Regulations 2012 and the Staffing and employment advice for schools, "this must be disclosed to new potential school employers when requested".

## **20. Roles and Responsibilities**

Line Managers and School Governing bodies are responsible for implementing the policy in a fair and consistent manner.

Employees are responsible for engaging with and adhering to this policy and procedures.

We will consult Trade Unions regarding the content of the policy, and Trade Unions will be reasonably available to support and represent their members.

The school's HR provider is responsible for providing advice and guidance to Line Managers to support the fair application of this policy and procedure.

We expect all parties to apply the policy fairly.

## **21. Relevant Legislation**

Equality Act 2010

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](#). These are adhered to in this policy and procedure.

[The School Staffing \(England\) \(Amendment\) Regulations 2012](#)  
[Staffing and employment advice for schools](#)

## **22. Related Policies**

- Disciplinary Policy & Procedure
- Absence Management Policy & Procedure
- Staff Appraisal Policy
- Safeguarding Child Protection Policy

## **23. Policy review**

Reviewed: Spring Term 2026  
Date for review: Spring Term 2029

## **Appendix 1**

### **Glossary Of Terms**

<b>Acronym or term</b>	<b>Definition</b>
<b>SCC</b>	Surrey County Council. It can also be referred to as the council.
<b>PIP</b>	Performance Improvement Plan – a measure to help an employee achieve the required level of performance.
<b>LADO</b>	Local Authority Designated Officer responsible for managing allegations against adults who work with children.
<b>ASV Meeting</b>	Allegations against Staff and Volunteers Meeting – a meeting or discussion during which a decision is made on the strategy for managing an allegation. An ASV meeting, chaired by LADO will normally only be convened when it has been decided that the threshold of harm/risk of harm has been met.

## **Appendix 2**

### **Performance Capability Issues related to Health**

If a member of staff has performance issues that are related to a disability or long-term health condition, but where the employee is fit to come to and remain in work, the performance issues should be managed under this Performance Improvement 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 this Performance Improvement 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 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 months, but 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.

## **Appendix 3**

### **Guidance – Frequently Asked Questions**

#### **A. Performance Improvement Plans and Timescales for Improvement**

##### **What should I think about in setting a reasonable timescale for improvement?**

What is reasonable will vary depending on:

- How long the employee has been performing the role?
- Is sufficient guidance available to enable the employee to perform the role?
- What training and support has been offered to the employee?
- What has been established as the reason/s for the unsatisfactory level of performance?
- What measures have been agreed for improvement to overcome the same? E.g. are there any reasonable workplace adjustments that must be put in place? If so, how long will it take to make those adjustments and then how much time should be given to the employee to show improvement in performance resulting from putting those adjustments in place?

##### **What if the employee disagrees with the content of the Performance Improvement Plan?**

The plan should be agreed and signed by both the manager and the employee. As you review the employee's progress with them you should document the discussion and outcomes. This will be useful especially if you decide to progress to the formal stage of the procedure. If the employee disagrees with the content of the plan, then the points of dispute should be clearly noted. The employee's disagreement with the plan will not prevent it from being implemented. What is important is that the manager's expectations are clearly communicated, and any subsequent action will be based on whether they have been met.

##### **Why is it important to document the action taken informally?**

You need to evidence that the employee had been made aware of your concerns relating to their performance and that steps had been taken to support the employee to improve their performance.

#### **B. Performance Improvement and Pay**

##### **If an employee is not performing to the required standard, can the annual salary increment be withheld?**

Yes, in certain circumstances where performance is clearly below the agreed expectations and objectives have not been met, an increase in pay will not be warranted. The final decision to withhold a pay progression must be confirmed, in writing, to the individual in line with the Pay & Policy.

#### **C. The Formal Stages**

##### **How soon after the meeting should the outcome be confirmed?**

The relevant manager should confirm the outcome as soon as possible and normally no later than 5 working days after the meeting.

##### **If the Capability Hearing decision is to dismiss, how much notice is the employee entitled to?**

The employee should be given notice based on their contractual entitlement.

If the option is to dismiss, unless the employee can find alternative suitable employment, the notice may be extended to 12 weeks.

#### **E. Grievances**

##### **Can an employee raise a grievance about a capability issue?**

An employee cannot raise a grievance about the fact that their manager has taken or is considering taking formal performance improvement action. However, if the employee believes the process is not

being managed in accordance with the principles set out in the Performance Improvement Policy & Procedure then there is opportunity within the process for their concerns to be raised and considered. It is not necessary for the employee to raise a grievance through the grievance procedure. There may be limited occasions when the performance improvement process is paused whilst a concern is heard separately through the grievance procedure, but this would only be in cases, for example of alleged discrimination in the application of the process. See section 12 of the Policy & Procedure for further information.

#### **What if the grievance is unrelated to the performance improvement process?**

Where a grievance is unrelated to the performance improvement process, the grievance and performance issues can be dealt with independently and to ensure that the grievance is dealt with fairly and promptly, may run concurrently.

### **F. Sickness Absence during the Performance Improvement Process**

#### **The employee is on sick leave, what happens next?**

If the sickness is expected to be a short duration, it is reasonable to re-arrange the Performance Improvement Meeting.

If the employee is likely to be absent for four or more weeks, advice must be sought from Occupational Health to ascertain the likely timescale for the employee's recovery and whether they are expected to be fit enough to attend a meeting.

If Occupational Health confirms that the employee is likely to return soon (normally within four weeks), the meeting should be rearranged, and all parties notified.

If Occupational Health confirms that the employee is expected to remain unfit for the foreseeable future (normally longer than four weeks), it is reasonable for the meeting to proceed in the employee's absence. In these circumstances, the employee will be written to confirming that the meeting will go ahead in their absence and that a decision will be taken. This includes a decision to dismiss.

They will also be informed of their right to nominate a representative to attend the meeting/hearing for them if they wish to do so.

### **G. Redeployment specific to the Performance Improvement Procedure**

#### **When should redeployment be considered as an outcome of a capability case?**

Redeployment may be considered where:

- It is seen as a reasonable adjustment to support an employee covered by equalities legislation.
- There has not been a sustained improvement in performance in the current role, but the employee may be able to perform other roles within the council.

The employee is not capable of performing their role because of a statutory bar but can legally perform another role within the council.

#### **What redeployment support with the employee be entitled to?**

Employees will be eligible for redeployment support based on the reason for their capability related redeployment. Employees will receive redeployment support only where redeployment is considered a reasonable adjustment.

#### **What about other capability related redeployments?**

For the other capability redeployments, employees will be given the following support:

- Provided that the employee meets the minimum criteria of the job description, he/she will be eligible for a guaranteed job interview.
- Priority over external candidates.

They will however be responsible for finding an alternative job themselves and will not receive additional support from HR.

**What happens if redeployment is not secured?**

If redeployment is not secured within the time frame set by the chair of the Stage Two capability meeting (usually the notice period but no more than 3 months), and the employee has not been able to sustain the improvement level required, then the meeting will be reconvened. In such circumstances, the likely outcome will be dismissal.

**What if redeployment has already been explored?**

If redeployment has been explored at a previous stage in the process, and has not been successful, it is not appropriate for it to be considered as a potential outcome for a Capability Hearing.

**H. Professional Bodies****Should anything else be done if the employee is a member of a professional body?**

Some groups of staff may also be subject to standards set by their professional body. If it seems that performance may have fallen below the standard set by that body, you should contact your HR team to discuss a particular case.



## **Appendix 4**

### **Guide to ensuring a fair process and providing employee support**

#### **1. Introduction**

This document forms an integral part of our policies relating to managing issues of conduct (discipline), performance and attendance (absence). It should be read in conjunction with those policies. Managers are expected to ensure that equalities and support issues are considered from the outset.

#### **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.

##### **2.1 Line manager responsibilities**

Line managers (or manager receiving a grievance where different) are responsible for having an Equality, Diversity, and Inclusion (EDI) discussion with the 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. Employees may also need assistance if English is not their first language.

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

##### **2.2 Employee responsibilities**

Employees should let their line manager or trade union representative know about any adjustments that they need to enable them to fully participate in the process and should notify their manager or trade union representative of any changes in their circumstances indicating that their needs have changed so that appropriate arrangements can be made for them.

##### **2.3 All parties**

It is the responsibility of all parties, including internal and external investigators in disciplinary and grievance cases, 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 our HR provider, Trade Unions, or the School's HR Provider.

#### **3. Employee Support**

Employee wellbeing is our priority.

### **3.1 Line manager responsibilities**

Line managers (or manager receiving a grievance where different) should offer employees the support of the Employee Assistance Programme from the start of a process, including in the first written communication. In disciplinary cases, this should be from commencement of the investigation.

#### **3.1.1 In all cases**

Line managers should provide employees with information about any other relevant persons or services that are available to support them and should advise employees to contact their trade union representative if they have one. 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.

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

A referral to Occupational Health should be considered where appropriate.

Reasonable Workplace Adjustments may need to be considered to enable the process.

#### **3.1.2 Discipline**

Employers have a duty of care to all staff, including to those who are suspended from duty. In the case of suspension, someone outside of the disciplinary process should be appointed to act as the employee's support and point of contact within the school during the suspension period.

#### **3.1.3 Grievance**

In grievance cases, both the individual raising the concern and the alleged perpetrator (if applicable), should be asked whether they require support during and after the period of investigation.

### **3.2 Employees seeking support**

Employees seeking wellbeing support can find additional information via the headteacher.

If helpful, employees might wish to speak to someone about their mental health.