



Managing Work Performance Policy

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The CCG is committed to an environment that promotes equality, embraces diversity and respects human rights both within our workforce and in service delivery. This document should be implemented with due regard to this commitment.

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Version Control Sheet

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1. Policy Statement

- 1.1. The CCG has the right and responsibility to establish its requirements in standards of work to be achieved by its staff, so long as these are realistic/reasonable and clearly defined. In order to fulfill this responsibility the CCG will ensure that individual employees' work is monitored fairly.
- 1.2. The CCG recognises that there are occasions where an employee's performance, for whatever reason, fails to meet the standard required. This policy and the associated procedures for handling such issues is designed to provide the employee with the opportunity to understand how and why their performance does not meet the needs of the service, and to encourage the employee to improve their performance.
- 1.3. The procedure is not intended to exclude other measures, e.g. training and development, which may be considered appropriate for the purpose of encouraging an employee to improve his/her performance, but it represents a standard approach which provides the employee with opportunities to hear how and why his/her performance is considered unsatisfactory and to offer any explanation about this which he/she wishes to put forward and the opportunity to remedy the situation with appropriate support.
- 1.4. Formal action in line with the principles and procedure outlined below may follow if the employee fails to meet the agreed performance levels.

2. Principles

- 2.1. The overall objective of the procedure is to provide a framework around which an employee's performance can be improved so that it meets the standards required.
- 2.2. This procedure is designed to deal with unsatisfactory standards of performance by an employee that it is believed may be due to a lack of the necessary ability, aptitude, knowledge or skills required to do the job.
- 2.3. It does not deal with sickness absence. It is acknowledged, however, that health problems, particularly those that are stress related, may be identified in the course of the procedure.
- 2.4. In such cases the Managing Attendance Procedure should be used and the advice of Occupational Health will be sought to try to find the most appropriate individual solution.
- 2.5. Similarly, matters of misconduct do not fall within the scope of this document and should be dealt with under the Disciplinary Procedure. In this respect attitudinal difficulties relate more to conduct and if it should emerge that performance problems are related more to attitude than skills, knowledge, aptitude or health, the matter should be dealt with through the Disciplinary Procedure.

2.6. It should also be noted that this procedure does not apply to-

- Termination of a fixed term Contract of Employment where the term of that contract expires without being renewed.
- Termination of a temporary appointment where the reason for termination is that the requirement for the employee's service has ceased or diminished, or is expected to cease or diminish.
- Termination during or at the end of a probationary period of service, whether or not extended beyond its originally specified duration.
- Termination of employment by reason of redundancy, whether or not competence and performance are criteria taken into account when selecting for redundancy. Resignation by the employee, or other termination by mutual consent.
- Inadequate performance believed to be attributable to a willful refusal to work satisfactorily, which is liable to be regarded as a matter for action under the Disciplinary Procedure.

2.7. This procedure was drawn up having regard to the following guiding principles:

- To encourage a sensitive and constructive approach to capability issues by employees, Line Managers and Directors.
- To ensure capability issues are dealt with effectively and with clear outcomes at all stages.
- To involve and recognise the value of the role of the Trade Unions in the operation of this procedure.
- To ensure standards of work required are explained so that employees are clear as to what is expected of them.
- To try to find solutions to overcome difficulties whilst protecting the shared interests of everyone concerned to sustain standards and quality of service to the community.
- To recognise that whilst all reasonable efforts will be made to help improve and retain an individual employee with a capability problem, the CCG cannot guarantee to maintain employment. Should it be determined that performance is below standard required please refer to PDR process and incremental progression guidance.

- 2.8. The aim of the procedure is to ensure that employees can meet the basic requirements of the job and perform to the standards expected. This involves making clear what is expected within clear timeframes, setting clear identifiable targets, monitoring performance, and providing appropriate training support to achieve the standards. Where, despite this support, an employee is still unable to meet the standards required then it may be necessary to terminate their employment.
- 2.9. The procedure is staged to provide a framework for Managers and employees to resolve performance difficulties but that does not mean that each stage must apply regardless of the severity of the performance shortfall.
- 2.10. There may be exceptional cases where the capability problem strikes at the heart of the contract and termination of employment may be the only option if suitable alternative work is not available.
- 2.11. There may also be occasions when it becomes clear that the issue is one of conduct rather than capability which would warrant the matter being dealt with under the CCG's formal Disciplinary Procedure.
- 2.12. During employment adequate training and encouragement are essential to help achieve satisfactory performance. This will mean that regular discussions about performance will take place between employees and their managers. During these discussions managers will try to coach and develop employees and as such may set performance or behavioural targets for employees in an attempt to encourage improvements, without the recourse to formal procedures.
- 2.13. Where the performance of an employee is affected by a disability, as defined in accordance with the Equality Act 2010, reasonable adjustments will be considered in any aspect of work arrangements to support the employee in their performance at work.
- 2.14. Equally, employees themselves have a personal responsibility to ensure that they commit sufficient personal effort to achieve and maintain the standards defined for them.
- 2.15. Managers with responsibilities for performance management will receive the appropriate training to help them understand their role and manage performance effectively. This will include information on the objectives of performance management and how it will operate.
- 2.16. Every attempt will be made to ensure that any targets and timescales are a reasonable expectation and are agreed between line manager and employee. Where this agreement cannot be reached, it may be necessary for management to set the target that the employee is reasonably required to achieve within the timescale.
- 2.17. If performance has improved, the procedures will be stopped. It is expected thereafter that the employee will continue to maintain a satisfactory level of performance. Regular monitoring will continue although this will form part of the normal PDR process. If performance falls below the required standard the CCG retains the discretion to direct the employee towards a stage in the procedure as considered appropriate.

3. Procedure

3.1. This procedure is detailed at PART B

4. SCHEME OF DELEGATION (if appropriate)

4.1. Each policy will contain a scheme of delegation specific to the stages and actions associated to the policy. All Schemes will adopt the levels as outlined below therefore ensuring consistency throughout all policies and clarity within the CCG.

Informal procedure	Manager or equivalent level manager from elsewhere within the organisation
Formal procedure	Manager or equivalent level manager from elsewhere within the CCG or the line managers direct manager if the line manager has been previously involved or implicated

5. EQUALITY STATEMENT

5.1 In applying this policy, the CCG will have due regard for the need to eliminate unlawful discrimination, promote equality of opportunity, and provide for good relations between people of diverse groups, in particular on the grounds of the following characteristics protected by the Equality Act (2010); age, disability, gender, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, and sexual orientation, in addition to offending background, trade union membership, or any other personal characteristic.

5.2 An Equality Analysis has been carried out on this policy and can be viewed in Human Resources.

6. MONITORING AND REVIEW

6.1 The policy and procedure will be reviewed periodically by CCG Board in conjunction with operational managers and Trade Union representatives. Where review is necessary due to legislative change, this will happen immediately.

6.2 The implementation of this policy will be audited on an annual basis by the CCG Senior Leadership Team and reported to the CCG Board on a six monthly basis.

1. PART B - PROCEDURE

- 1.1. Managers should, before entering into the stages of the procedure and bring the matter to the attention of the People Services HR Business Partner.
- 1.2. When meeting formally with the employee, the Manager should normally be accompanied. This may be a representative from People Services.
- 1.3. The Manager should ensure an employee is aware of his/her right to be accompanied at all stages of the procedure either by a Trade Union Representative, or work colleague.

2. Informal Stage of the Procedure

- 2.1. If a Manager is concerned about an employee's standard of performance, the following process should be followed:-
- 2.2. Wherever possible, it is important to draw the employee's attention to issues as they arise but if this does not appear to be resolving the problem and/or the matter is more complex, then an initial investigation and appraisal of the employee's performance should be undertaken, so that the issue(s) can be clearly identified.
- 2.3. The Manager should then undertake an informal counselling interview with the employee, highlighting areas where performance is not considered to be satisfactory and give clear specific examples of problem areas and identify where improvements are required. The manager should make clear to the employee that this meeting is carried out as part 1 of the informal stage of the procedure. Suggestions should be made by both parties as to ways in which improvement can be achieved. The Manager should listen to any explanation or statements made and be prepared to adjourn the meeting, if necessary, to investigate any points raised by the employee.
- 2.4. It should be made clear to the employee that informal counselling about capability problems is an attempt to understand the reason for and hopefully solve such problems.
- 2.5. It is important that the informal counselling encourages the employee to explain anything that may be affecting their performance, including external factors e.g. domestic problems, health issues, resource imbalance. If the source of the problem relates to a health issue then, if appropriate, the employee should be referred to Occupational Health and medical advice sought.
- 2.6. At the end of the meeting the Manager should confirm with the employee what has been discussed and agreed. The Manager should ensure that he/she has clearly explained the standard of performance required, the training and/or other support to be made available and confirmed that performance will be monitored over a specified period. A date should be set for a further meeting to monitor improvement. See 2.8.
- 2.7. It is important that accurate notes are kept of the discussion and that the employee is made aware that failure to improve performance could result in the matter being dealt with on a formal basis.

- 2.8. The subsequent performance of the employee should be monitored and assessed objectively and frequently, giving the employee any feedback, both positive and negative e.g. review meetings weekly or fortnightly.
- 2.9. During the informal stage of the Managing Work Performance Policy employees do not have the statutory right to be accompanied by a Trade Union representative or workplace colleague.

3. Stage 1 of the Formal Procedure

- 3.1. If the problem remains, or is of a more serious nature, the Manager should move to the formal stage of the procedure.

Timescales

- 3.2. Normally, the period given for improvement will be no more than six months after the date of entry into the Formal Procedure (in exceptional circumstances this period could be extended). The frequency of review meetings during this period will depend on the circumstances of each case. In extreme cases where poor performance is likely to present a risk to the CCG, staff or customers, then the period given for improvement in performance after the date of a formal warning will be no more than 4 weeks.
- 3.3. The employee should normally be given notice, of at least 48 hours, of a meeting with the Manager and be advised of their right to be represented. The Manager should write to the employee and state the issues he/she is going to discuss at the meeting. (Refer to template letter in Appendix 4)
- 3.4. The Manager should begin the meeting by outlining the problem as he/she sees it, remind the employee of the standards required and seek to confirm with the employee's agreement/recognition that there is a shortfall in performance.
- 3.5. The Manager must listen to any reasons given or statements made by the employee and be prepared to adjourn the meeting, if necessary, to investigate any points raised. It is important that the employee is given the opportunity to explain anything that may be affecting their performance. Suggestions from the employee will be considered and the possibilities of alternative duties may be discussed, in accordance with the provisions of the Organisational Change Policy.
- 3.6. **At the end of the meeting, the Manager should:**
 - Confirm the decision and outcome in writing to the employee and any action points made.
 - Set up a **performance improvement plan** with the employee with a timetable for improvement. The timescale should be reasonable and fair and agreed e.g. between one and three months. It is important that the Manager monitors performance against the improvement plan on a regular basis in order to:
 - provide support and guidance to the employee, hopefully to assist them to improve their performance;
 - to be aware of/and document problem areas for further discussion.
 - Should an opinion be needed from Occupational Health, the Manager should also refer to this in the letter to the employee. It is important that Occupational Health are provided with a thorough and accurate account of the problem.

- **Issue a formal warning to the employee** that their performance is below standard and advise them that failure to improve their performance could ultimately lead to dismissal should they continue to fail to meet the standard required.
- An employee will have the right to appeal against any Formal Warning issued. This should be done within ten working days of receipt of the letter. Any appeal should be to the Director of the service. An employee has the right to be accompanied by a Trade Union representative or work colleague.

4. Stage 2 of the Formal Procedure

- 4.1. If the employee's performance continues to remain below standard, or is seriously below the standard required, the employee should be advised, normally with at least 48 hours notice that a meeting is to be held to discuss their performance. The issues to be addressed should be outlined and the employee advised of their right to be represented (as in 4.4).
- 4.2. The Manager should state the nature of the concern(s) to the employee and remind them of what is required. The Manager will need to listen to what the employee has to say (as in 3.5, it is important that due account is taken of any medical information which the employee has provided and a referral made to Occupational Health, if appropriate). The Manager should be prepared to adjourn the meeting, if necessary, to investigate any points raised by the employee.
- 4.3. At the end of the meeting the Manager will need to:
 - Confirm the discussion and action points;
 - Set up a **final performance improvement programme** with the employee, with a timetable set for improvement as outlined in Appendix 3.
 - **Issue a final warning** to the employee explaining what will happen if they continue to fail to meet the standard required.
 - The employee will have the right to appeal against any Formal Warning issued. This should be done within ten working days of receipt of the letter. Any appeal should be to the [insert post title]. The employee has the right to be accompanied by a Trade Union representative or work colleague.
- 4.4. Where at the completion of the final period allowed for improvement there has not been acceptable progress, and management has exhausted all other avenues in relation to additional training, mentoring etc, the Line Manager will confirm the intention to consider formal disciplinary action in accordance with the formal stages of the Disciplinary Policy whilst continuing the supportive measures outlined in this Policy. In such cases the Manager should seek advice from a People Services HRBP before convening a Formal Disciplinary Hearing. – Refer to Disciplinary process.

5. Stage 3 of the Formal Procedure

- 5.1. The employee will be advised in writing of arrangements for a **formal Disciplinary Hearing** and at least 10 working days notice will be provided. The notification will include the purpose of the meeting, copies of any written evidence to be submitted, relevant documents to be referred to, and details of any witnesses to be called. The

employee will be advised of the right to be accompanied by a Trade Union representative or work colleague during the formal stages of the Disciplinary Policy and the potential outcome of dismissal on the grounds of e.g. capability.

The Panel for the hearing will consist of:

- An Associate Director who will act as Chair
In the event of the issue being related to one of the Associate Director, the panel CCG member will be the Assistant Chief Officer or another senior member of staff.
- A People Services HRBP

The hearing to be conducted in accordance with procedure outlined in Appendix 2.

5.2. The Panel considering a capability issue will need to consider:

- An outline of the employee's job/role within the department including their date of commencement, job description, their application form and training record.
- The performance standards required of the post holder.
- Reasons why the standards are achievable.
- The reasons for setting the standards.
- Where the employee falls short of performance (*with evidence where appropriate*).
- Steps that the Manager has taken to improve the employee's performance including dates and times of meetings with copies of letters sent and your notes of meetings held.
- Management's response to any explanations or statements of the employee.

5.3. The Panel may determine either that:

- No further action be taken.
- There will be a further opportunity to improve performance, together with any specific recommendations.
- An alternative post be offered which may be at a lower level of responsibility and grade/salary.
- Contract of Employment be terminated with the required period of notice.

5.4. The employee will be advised of the **right of appeal** against the decision and the decision will be conveyed in writing within five working days.

5.5. Any appeal must be registered in writing to [insert name] within ten working days of receipt of the letter confirming the outcome.

5.6. The Appeal Hearing will be conducted in accordance with Appendix 2 and the decision of the Panel will be final.

Equality Analysis Initial Assessment

Title of the change proposal or policy:

Managing Work Performance

Brief description of the proposal:

To ensure that the policy amends are fit for purpose, that the policy is legally compliant, complies with NHS LA Standards and takes account of best practice.

Name(s) and role(s) of staff completing this assessment:

Date of assessment:

Please answer the following questions in relation to the proposed change:

Will it affect employees, customers, and/or the public? Please state which.

Yes it will affect all employees.

Is it a major change affecting how a service or policy is delivered or accessed?

No

Will it have an effect on how other organisations operate in terms of equality?

No

If you conclude that there will not be a detrimental impact on any equality group, caused by the proposed change, please state how you have reached that conclusion:

**No anticipated detrimental impact on any equality group. The policy adheres to the NHS LA Standards and best practice.
Makes all reasonable provision to ensure equity of access to all staff. There are no statements, conditions or requirements that disadvantage any particular group of people with a protected characteristic.**

Please return a copy of the completed form to the Equality & Diversity Manager

Appendix 2

Conduct of Disciplinary Hearings and Appeals Under the Managing Work Performance Policy

BOARD MEMBER APPEALS

The Panel for the hearing or appeal hearing will consist of three Board Members (one of whom will act as Chair for the purpose of controlling the proceedings). A representative from the People Services Team will act as adviser to the Board Member Panel. The employee may be accompanied by a Trade Union representative or a work colleague

CONDUCT OF HEARINGS

- The Chair of the Panel will introduce those present and explain the purpose of the hearing, also the procedure to be followed. The procedure will allow for short adjournment should either party wish a brief period for deliberation during proceedings.
- The Manager will present a statement of the case regarding the reasons for the employee being unable to achieve satisfactory levels of performance. Documentary evidence may be referred to and witnesses called.
- The employee/representative will have the opportunity to question the Manager and witnesses.
- The Panel will have the opportunity to question the Manager and witnesses.
- Each witness will leave the proceedings after questioning.
- The employee/representative will present a statement of case and may call witnesses in support.
- The Manager will have the opportunity to question the employee and witnesses.
- The Panel will have the opportunity to question the employee and witnesses.
- Each witness will leave the proceedings after questioning.
- The Manager will summarise the case introducing no new evidence.
- The employee/representative will summarise the case, introducing no new evidence.
- The Manager and employee will leave the proceedings whilst the Panel considers its decision and recommendations. Should the Panel wish to ask

further questions both parties will return notwithstanding that the Panel may only wish to ask questions of one of the parties.

- On reaching a decision, the Chair will recall the parties and advise them of the outcome.
- The employee will be advised of the outcome in writing.

Appendix 3

Performance Improvement Plan (PIP)

To be used by Manager and Employee as part of the Managing Work Performance Procedure as a Signed Record

***Informal Counselling**

***Formal PIP**

***Final PIP**

***(Delete as appropriate)**

Name of Manager Conducting Interview:

Department:

Accompanied by

Name of Employee Being Interviewed:

Department:

Section:

Accompanied By:

Date of Interview:

Stage 1/Stage 2 (delete as appropriate)

Dates of Any Previous Discussion(s) Regarding Performance:

.....

.....

.....

(Please attach any supporting documentation)

SPECIFIC WORK ISSUES WHICH REQUIRE DISCUSSION BETWEEN MANAGER AND EMPLOYEE

Areas of Concern			
Standards Required			
Agreed Action Required To Meet Requirements (identify by whom)			
Timescale for Improvements			
Support Required (identify by whom)			
Objective Achieved?			

Any other information which should be taken into account regarding employees performance - Employee's Comments:

Are there any warnings to be given?

FORMAL/FINAL

Date of Next Meeting:

Signed By Employee:

Date:

Signed By Manager:

Date:

To be completed by Manager

Reason for issuing Formal Warning:.....
.....
.....
.....

cc Employee

People Services Team
Trade Union Representative

Appendix 4

**Invitation to Attend Counselling Session Stage 1/Stage 2
(delete as appropriate)**

Date:

Ref:

Name

Address

Dear

Managing Work Performance Stage [insert 1 or 2]

In accordance with the Managing Work Performance Policy a meeting has been arranged for **(date, time and place)** to discuss **(Be specific about the concern(s) e.g. failing to meet payroll deadlines).**

At any part of the formal stage you are entitled to be accompanied by a Trade Union representative or a work colleague if you wish.

Please acknowledge receipt of this letter by signing the attached copy.

Yours sincerely

.....
(Manager)

I acknowledge receipt of an exact copy of this letter.

Signature:.....

Date:.....

**Appendix 5
Formal Warning Letter**

Date:

Ref:

Name

Address

Dear

Managing Work Performance Stage 1/Stage 2 (delete as applicable)

As a result of our meeting on I am now writing to inform you of the outcome.

The purpose of the meeting was to discuss your performance at Stage of the Managing Work Performance Policy. The parties present were (Employee), (Manager) and who was your representative.

The areas of concern which we discussed were

This letter is a formal warning at Stage of the procedure. Your performance is below the standard required and failure to improve could ultimately lead to your dismissal.

I have enclosed a copy of the Performance Improvement Plan, which we completed and agreed. I would ask you to pay particular attention to the requirements of the Plan. We agreed that the timescale for improvements was by (date)

If you feel that at any time you are in need of any further support in addition to what we agreed please let me know.

Your performance will be reviewed formally on (date) however, I will speak to you informally on a daily/weekly/monthly basis.

You have the right of appeal against this warning, which should be within 10 working days of receipt of this letter and should be to

Please acknowledge receipt of this letter by signing the attached copy.

Yours sincerely

.....
(Manager)

cc People Services
Trade Union Representative

I acknowledge receipt of an exact copy of this letter.

Signature:..... Date:.....

Appendix 6 Flow Chart for Managing Work Performance Procedure

1.1 INFORMAL STAGE	
Informal counselling interview	
↓	
Agree standard of performance required and monitoring arrangements	
Make notes of discussion	
↓	
If no improvement in performance	FORMAL PROCEDURE (Stage 1)
	Arrange formal meeting (48 hours notice) ↓
	At end of meeting:
	<ul style="list-style-type: none"> • Confirm decision in writing • Set up attendance improvement plan • Arrange appointment at OH if appropriate • Issue formal warning to employee including agreed time limit of improvement
	↓
FORMAL PROCEDURE (Stage 2)	If no improvement during agreed time consider moving to Stage 2
Arrange formal meeting (48 hours notice) ↓	
At end of meeting:	
<ul style="list-style-type: none"> • Confirm discussion and action points (in writing) • Set up a final performance improvement programme • Issue a final warning to employee (explain outcome if they fail to meet standard required) • Employee has Right of Appeal 	
↓	
If no improvement within agreed time limit consider moving to Stage 3	FORMAL PROCEDURE (Stage 3)
	Write to employee giving at least 10 working days notice of Formal Managing Work Performance Hearing. Convene Panel. ↓
	Panel makes determination/decision.
	Employee notified of outcome and Right of Appeal. ↓

	FORMAL PROCEDURE (Stage 3) Write to employee giving at least 10 working days notice of Formal Managing Work Performance Hearing. Convene Panel.
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