

# **Capability Procedure - Performance**

## **Capability Procedure**

### **1. Introduction**

- 1.1. Dacorum Borough Council aims to ensure that employees achieve and maintain a high standard of performance in their work at all times. Managers will carry out regular Appraisals, establish standards, monitor performance and provide employees with appropriate training and support to meet those standards. Employees have a contractual responsibility to carry out their duties to an acceptable level and should be given the necessary support and encouragement.
- 1.2. This procedure aims to provide a fair and consistent process to enable managers to assist employees to improve their performance and carry out their duties at an acceptable level. This Procedure is set out in section 12 of the Employment Handbook which can be located on the DENNIS > People > Human Resources.

### **2. Procedure**

- 2.1. The purpose of this procedure is to identify when an employee is not performing to an acceptable level and the action that should be taken.
- 2.2. This procedure applies to all permanent and temporary employees of the Council except those within their probationary period.
- 2.3. In cases where unsatisfactory performance is directly related to sickness absence, the Absence Management Policy and Procedures should be followed.
- 2.4. Cases where concerns about performance are of a serious nature, normally following a specific incident or single error due to negligence, should be dealt with under the Council's Conduct Procedure.
- 2.5. The employee may be accompanied by a Trade Union representative or work colleague at any meeting held under this procedure if they request this.

### **3. Informal Procedure (Capability Flowchart Appendix 1)**

- 3.1. Performance issues should initially be dealt with via the normal day to day supervision process through which managers allocate work and monitor performance.
- 3.2. Where an employee's performance is causing concern their manager should arrange to meet with them on a one-to-one basis.
- 3.3. The manager should clearly set out the area(s) in which it is considered that the employee is not performing to an acceptable level in an action plan.
- 3.4. The employee should be asked to respond to these concerns and the discussion should cover any factors contributing to the problem.
- 3.5. The discussion should aim to explore the problem, the factors contributing to it and identify possible solutions.
- 3.6. After the meeting, the manager must finalise the action plan to include details of the required levels of performance and any action that will be taken in order to achieve this, such as additional training; additional supervision; targets set and

how progress will be monitored. The employee must be given a set time period to achieve the required levels of performance and advised that if there is insufficient improvement, formal action will be taken. A review date should be set and the manager should confirm this in writing and send it to the employee with a copy of the action plan.

- 3.7. During the review period the manager should ensure that they provide any additional support/training and regularly monitors and evaluates the employee's performance. In the event that there is clear evidence that no or insufficient improvement is being made, the manager may make the decision to proceed to the formal stage of the procedure with immediate effect.
- 3.8. At the review date, it will either be confirmed that the employee has reached the required standard, or that it is necessary to move to the formal stage of this procedure.
- 3.9. Where performance has improved sufficiently the manager should write to the employee to confirm this.
- 3.10. In the event that the employee fails to achieve the required level of performance, or, having achieved that level fails to sustain it, the Formal Procedure should be followed. The competencies within the Council's value and expectations to be consistently demonstrated otherwise performance is deemed as unsatisfactory.
- 3.11. **In cases where fundamental performance issues are identified and there is clear evidence of effective management support/oversight, the manager (along with HR advice) can consider commencing performance management at stage 1 of the Formal Procedure.**

#### **4. Formal Procedure – Stage 1 (Capability Flowchart Appendix 1)**

- 4.1. The manager should inform the employee that it is now necessary to progress to the formal stage of the procedure and that the employee is required to attend a stage 1 formal meeting to be conducted under that procedure. The letter should give at least five working days notice of the first formal meeting and should state the following:
  - the date, time and location of the meeting
  - the reason for the meeting, giving outline details of the shortfall in performance
  - the employee's right to be accompanied by a Trade Union representative or work colleague
  - if the employee wishes to refer to any evidence or documentation at the meeting this must be given to the manager at least 48 hours before the meeting is due to take place
  - that the meeting will be held under the formal stage of the Capability Procedure
  - that Human Resources will attending the meeting
  - disciplinary action may be taken

The manager should also enclose any evidence or documentation that will be referred to at the meeting.

### **Prior to the stage 1 formal meeting**

- the manager should consider what progress has been made and whether they feel the employee is now working at the required level
- the manager should discuss the matter with the Human Resources Officer involved
- the manager should consider whether it might be appropriate to discuss the possibility of redeployment to an alternative post with the employee
- if the employee wishes to refer to any evidence or documentation at the meeting this must be given to the manager at least 48 hours before the meeting is due to take place.

#### **4.2. At the formal meeting the manager should:**

- outline the shortfalls in performance and the measures that have already been taken in order to achieve a satisfactory standard
  - provide the employee with the opportunity to respond
  - seek to identify possible reasons for unsatisfactory performance
- 4.3. Performance still identified as unsatisfactory and the employee has received adequate support, employee issued with a written warning for 12 months and given a further period for performance to improve (1-3 months).
- 4.4. The manager will discuss and plan to improve performance to the required standard within a reasonable period (the time agreed will depend on the nature of the work and extent of the required improvement). Depending on the circumstances, this could be up to three months.
- set dates for regular interim meetings on a one to one basis to check on progress
  - set a date to review performance in line with the agreed period
  - inform the employee that if they have not reached the required level of performance the employee will move to Stage 2 of the process. The outcome of the meeting must be confirmed in writing.
- 4.5. For the purpose of continuity, the same Human Resource officer should attend all review meetings wherever possible.
- 4.6. If the employee is working at a satisfactory level the manager should inform them that no further action will be taken under this procedure and that this will be confirmed in writing. The 12 month written warning will remain in place if this was issued at the stage 1 formal stage.
- 4.7. The employee should also be informed that in the event that the improved performance is not sustained within the following 12 months the procedure will recommence at Stage 2 formal meeting.
- 4.8. If the employee is not working at a satisfactory level and no adequate improvement the employee will move to Stage 2 of the formal process.

## 5. Formal Procedure - Stage 2

- 5.1 CLT staff member (Tier 3) will invite the employee to attend stage 2 of the formal process using the same guidance at 4.1
- 5.2 The manager should briefly summarise the position to date including details of action taken to assist the employee to reach the required standard the employee should be asked to comment on their progress since the last meeting
- 5.3 The CLT staff member should then state whether or not the employee has reached the required level of performance.
- 5.4 If the employee is now working at a satisfactory level, the CLT staff member will inform them that the first written warning issued will remain on their personal file for a period of twelve months from the date it was issued, after which time it will be cancelled. This will be confirmed in writing.
- 5.5 If the employee is **not** working at a satisfactory level they should be issued with a final written warning and given a further period of time (1-3 months) to improve their performance. Consideration should be given to any appropriate additional training or other support that could be offered. Additionally, redeployment to a job at a different level or of a different type should be considered.
- 5.6 The employee should be informed that if they are not performing at the required level by the stage 3 formal meeting it may result in dismissal from the Council.

## 6. Formal Procedure - Stage 3

- 6.1 Strategic Director/Deputy CEO (SLT tier 2) will invite the employee to attend a Stage 3 formal meeting using the same guidance at 4.1
- 6.2 The manager should briefly summarise the position to date including details of action taken to assist the employee to reach the required standard. the employee should be asked to comment on his/her progress since the last meeting
- 6.3 The SLT member of staff should then state whether or not the employee has reached the required level of performance
- 6.4 The SLT member of staff should ensure that, if the employee has not reached the required standard, they have been given first and final written warnings and the opportunity to improve over reasonable periods of time and given reasonable targets.
- 6.5 If the employee is now working at a satisfactory level, they should be informed that the final written warning issued at stage 2 will remain on their personal file for a period of twenty-four months from the date it was issued, after which time it will be cancelled. .
- 6.6 If the employee is not working at a satisfactory level the SLT member of staff will inform the employee that they are dismissed from the Council's service. The employee should be given the correct notice period, (i.e. Either contractual notice

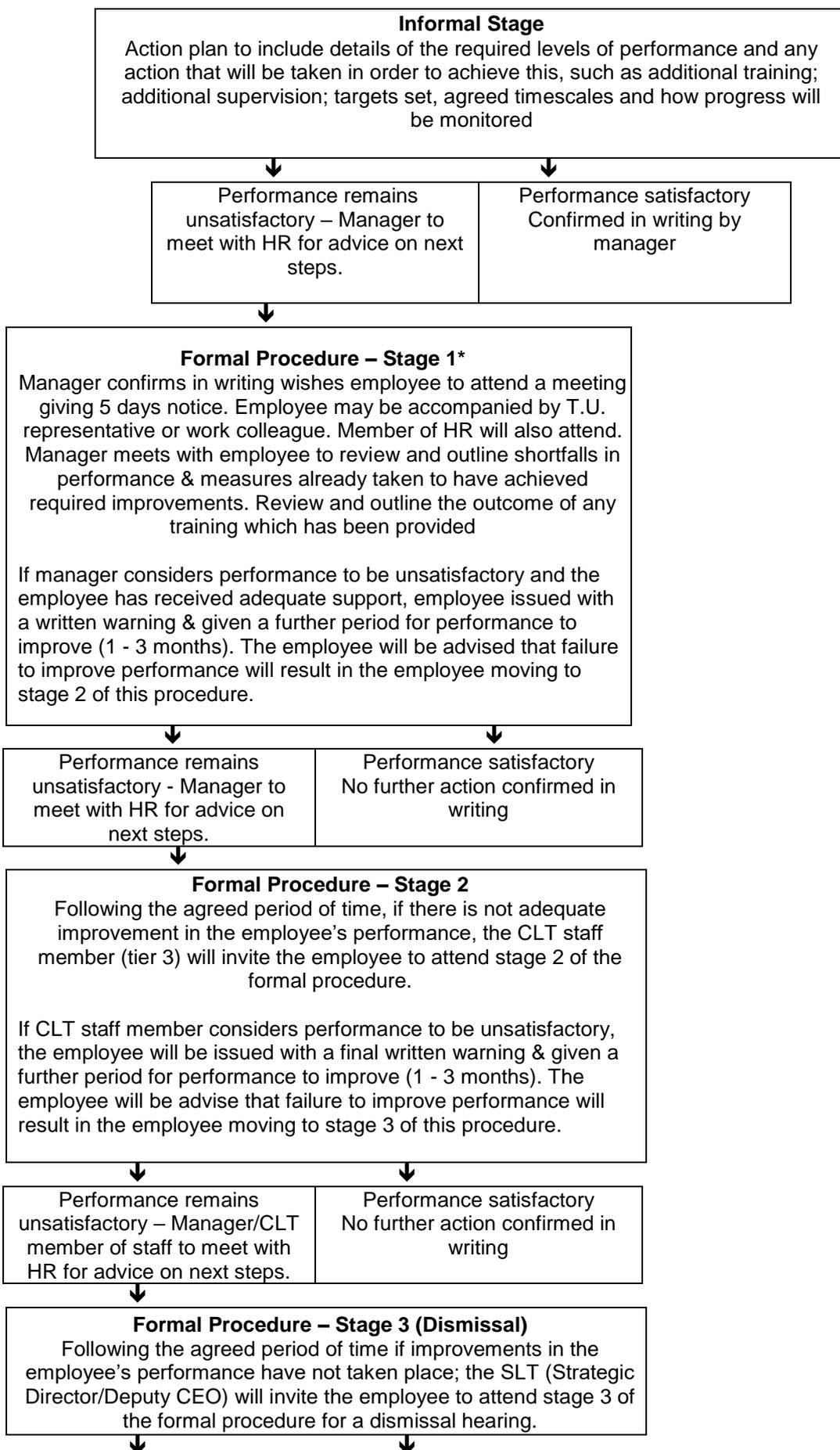
or 1-week for each year of continuous service, up to a maximum of twelve weeks, whichever is the greater) and if it is not considered appropriate for them to remain at work, they should be informed accordingly.

- 6.7 As an alternative to dismissal, redeployment to a job at a different level or of a different type should be considered. If this is agreed, redeployment will be sought during the employee's notice period. No protection of pay will be given and the final written warning will remain on the employee's personal file for a period of twenty-four months from the date it was issued, after which time it will be cancelled.
- 6.8 The manager must keep a full record of events. This should set out the nature of the unsatisfactory performance, the employee's response(s), any action taken and the reasons for it. The record will be kept confidential and retained in accordance with the Data Protection Act 2018 (GDPR).
- 6.9 Where a warning has been issued it should be placed on the employee's personal file as follows:
- Written warning – for a period of 12 months  
Final written warning – for a period of 24 months  
At the end of the warning period, the warning should be cancelled
- 6.10 During the life of a written warning for either Conduct or Capability it becomes necessary to consider further action under either Procedure, the previous warning will be taken into account when the Adjudicator is deciding what action to take.
- 6.11 In the event of the improved performance not being sustained during the 'warning period' the Procedure should be followed from the stage previously reached.

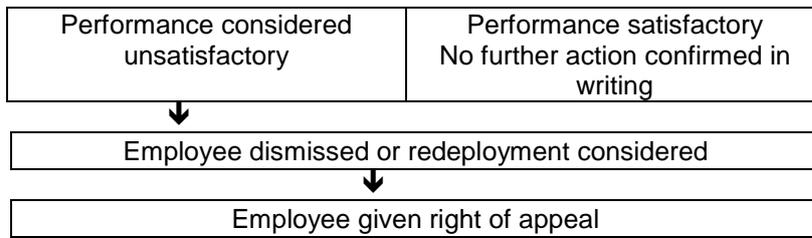
## 7 Right to appeal

- 7.1 An employee may request an appeal against a written, final written warning or dismissal by writing to Human Resources within ten working days of the date of the letter notifying the decision. The written request **must state the specific reasons** for the appeal in line with one or more of the following grounds:
- that they believe a finding or penalty is unfair;
  - that new evidence has come to light; or
  - that they think there have been breaches in the Capability Procedure.
- 7.2 At the appeal hearing only the reasons given under one or more of the three specific grounds stated in the employee's letter requesting an appeal will be considered.
- 7.3 Human Resources will acknowledge the employee's letter requesting an appeal within five working days.
- 7.4 All cases of appeal, other than for dismissal, will be dealt with by a manager at a more senior level, not previously involved with the case. A Human Resources Officer, not previously involved in the case, will attend to provide advice. In cases of dismissal the appeal will be dealt with by the Employment Appeals Committee.

**Capability Flowchart**  
**Procedure for Managing Performance (Appendix 1)**



## Appendix 1



*\* In cases where fundamental performance issues are identified and there is clear evidence of effective management support/oversight, the manager (along with HR advice) can consider commencing performance management at stage 1 of the Formal Procedure.*