



**East Herts Council**

**Managing Performance Policy**

**Policy Statement**

**Policy Statement No 2 (Issue No 2)  
June 2009**

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# **MANAGING PERFORMANCE POLICY**

## **Policy Statement No 2 (Issue No 2) June 2009**

This policy replaces the Capability Policy and Procedure dated August 2006

### **1.0 Introduction**

- 1.1 The purpose of this policy is to assist employees in performing to the best of their ability to help ensure that the Council is able to deliver excellent standards of service to our customers.
- 1.2 This policy applies to all employees except those at Chief Officer level and above where procedures set out in the Constitution are used.
- 1.3 Managing performance is the responsibility of both managers and employees. All managers have a role in ensuring that the relevant performance standards are met. All employees have a role in actively participating in the performance management process.

### **2.0 Guiding Principles**

- 2.1 The six principles of this policy are:
  - 1) Employees must know what performance standards are expected of them.
  - 2) Managers should be regularly talking to employees about their performance against key targets and objectives as set out in their PDR objectives form, as part of normal day-to-day performance management (i.e. regular 1-1s or supervision).
  - 3) Any shortcomings in performance must be discussed with the employee as soon as is practicable.
  - 4) Employees must be given reasonable assistance and opportunity to improve their performance.
  - 5) Employees have the right to be accompanied by a work colleague or Trade Union representative at any meeting under the formal stage of this policy.
  - 6) Any decision to take formal action against an employee will be taken only after full investigation and discussion with the employee.

### **3.0 When to Use This Policy**

3.1 Any performance issues should first be dealt with informally through normal day-to-day performance management (e.g. regular 1-1s or supervision). However, where this has not produced a satisfactory result, and the employee's performance still fails to meet the required standards, there are 3 possible routes a manager can take (these are not mutually exclusive):

#### **3.1.1 Capability**

If an employee cannot achieve a satisfactory level of performance through no fault of their own (e.g. lack of skills, insufficient training), this should be dealt with under the Managing Performance policy.

#### **3.1.2 Conduct**

If an employee has failed to achieve a satisfactory level of performance through carelessness, negligence or refusing to carry out the duties of their post, this should be dealt with under the Disciplinary policy.

#### **3.1.3 Ill-Health**

If an employee cannot achieve a satisfactory level of performance due to ill-health and/or absence from work, this should be dealt with under the Absence Management policy. Employees who have a disability covered by the Disability Discrimination Act should be given reasonable adjustments; however they are responsible for meeting the same performance standards as any other employee.

### **3.2 Day-To-Day Performance Management**

Within the first month of employment or in a new role, a manager should outline the standards of performance expected of them, and the employee should be given the necessary support, induction and training. These standards will come from the Job Description, Person Specification, Codes of Practice and/or any other professional standards which apply. All employees should be helped and coached to achieve these standards, ideally through day-to-day performance management (i.e. regular 1-1s or supervision). Employees should have a full Performance Development Review annually as well as a mid-year review to discuss performance and contribution to previously set objectives, to set new ones if applicable, and to identify any learning and development needs. Please see the Performance Development Review Guidelines for further information.

## 4.0 Informal Stage

### 4.1 Dealing with poor performance

If a manager has concerns about an employee's performance, they should keep detailed notes of each supervision session or 1-1 meeting and follow up each session with a list of agreed actions. Any concerns should also be raised and recorded as part of the PDR process. The informal stage also gives the manager an opportunity to investigate the root causes of poor performance and to address any issues as soon as they arise. Causes could include, for example, lack of skills, inadequate training or lack of resources.

### 4.2 The manager should:

- Give the employee factual examples of their unsatisfactory performance
- Ask the employee for an explanation
- Where the reason is a lack of the required skills, check to see whether the employee has received training, and if not, the employee should be given training and reasonable time to improve
- Provide any coaching or additional support needed to help the employee to achieve their objectives
- Make the employee aware that if their performance does not improve, it could result in formal action
- Set SMART targets (please see Appendix A for guidance on setting SMART targets)
- Ensure this is raised and recorded as part of the PDR process and an appropriate rating should be given accordingly.

## 5.0 Formal Stage

### 5.1 First Performance Review Meeting

If the employee's performance has not improved, despite being addressed through the informal stage, the manager will invite the employee to attend a First Performance Review Meeting at which the employee will have the right to be accompanied by a Trade Union representative or work colleague (please contact HR for a template letter). The manager should prepare for the meeting by ensuring that they have clearly identified and evidenced the ways in which the employee is not meeting the performance standards required. Equally, the employee should come prepared with evidence of where they feel that they have met the standards. The manager will need to make the employee aware of the consequences, should their performance continue to fall below the required standards.

- 5.1.1 The manager should be accompanied at the First Performance Review Meeting by an HR Officer. It is their role to advise on procedure, ensure consistency and equity of treatment and ensure that the letter setting out the decision of the meeting is sent to the employee. The HR Officer may also take notes at the meeting unless the manager decides that an additional note-taker should be present.
- 5.1.2 At the meeting, the manager should discuss the performance shortfall, any contributory factors, and any improvement or support required. The manager can issue a Verbal Warning at this meeting, and/or could put more support in place for the employee. A letter should be sent to the employee within 5 working days confirming the outcome of the meeting (please contact HR for a template letter). At the end of the meeting (or shortly afterwards) a Performance Improvement Plan should be completed (see Appendix B), this should be signed by the employee, and a First Review Period should be set.
- 5.2 Review Periods  
The aim of the Performance Review Period is to allow an employee a set period of time to address the performance issues identified at the Performance Review Meeting and to reach the targets or objectives outlined in the Performance Improvement Plan.
- 5.2.1 During the Review Period, the manager should monitor and assess the employee's performance against the agreed objectives in the Performance Improvement Plan and give ongoing feedback to the employee during their 1-1 meeting or supervision. The manager should also ensure that the employee receives access to additional support needed to help them to achieve the targets on their Performance Improvement Plan, for example, more frequent supervision meetings. In some cases, it may be helpful to assign a buddy or mentor to the employee to help them, or consider opportunities for the employee to take part in work-shadowing.
- 5.2.2 The length of the Review Period will be whatever is reasonable considering the circumstances (e.g. if there is a training or development need, the Review Period will need to take account of the time it would reasonable take to put this into practice). More guidance on setting Review Periods is available in Appendix C.
- 5.2.3 At the end of the First review period, the manager should meet with the employee and confirm whether they have reached the required standard or not. This should also be confirmed in writing (please contact HR for template letter)

### 5.3 Second Performance Review Meeting

At the end of the First Review Period, if the targets or standards set out in the Performance Improvement Plan are not met or sustained, the manager will ask the employee to attend a Second Performance Review Meeting, at which the employee will have the right to be accompanied by a Trade Union representative or work colleague (please contact HR for a template letter). Again, the manager should make the employee aware of the consequences, should their performance continue to fall below the required standards.

- 5.3.1 The manager should be accompanied at the Second Performance Review Meeting by an HR Officer. It is their role to advise on procedure, ensure consistency and equity of treatment and ensure that the letter setting out the decision of the meeting is sent to the employee. The HR Officer may also take notes at the meeting unless the manager decides that an additional note-taker should be present.
- 5.3.2 At this meeting, the manager should again discuss any performance shortfall, any contributory factors, and any improvement or support required. The manager may issue a First Written Warning at this meeting. A letter confirming the outcome of the meeting and the details of the warning should be sent to the employee within 5 working days of the meeting and a copy should be kept on the employee's file and regarded as live for 12 months (please contact HR for a template letter). At the end of the meeting (or shortly afterwards) a Second Performance Improvement Plan should be completed, this should be signed by the employee, and a Second Review Period should be set.
- 5.3.3 At the end of the Second Review Period, the manager should meet with the employee and confirm whether they have reached the required standard or not. If the employee has met the required standard this should be confirmed in writing (please contact HR for a template letter).
- 5.3.4 If, following the Second Review Period, the targets or standards set out in the Second Performance Improvement Plan are still not met or sustained, the manager should meet with the employee informally to discuss the employee's performance, and if necessary advise them that they will be invited to attend a Third Performance Review Meeting.

### 5.4 Third Performance Review Meeting

At the end of the Second Review Period, if the targets or standards set out in the Second Performance Improvement Plan are not met or

sustained, the manager will inform the employee that their case has been referred to their Head of Service to arrange a Third Performance Review Meeting (please contact HR for a template letter).

- 5.4.1 If the employee's line manager is a Head of Service the Third Performance Review Meeting will be held by another Head of Service. If the employee concerned is a Head of Service, the First, Second and Third Performance Review Meetings will all be held by the Service Director. For the purposes of this policy 'Head of Service' will be used to describe the person holding this meeting.
- 5.4.2 The Head of Service should invite the employee to the meeting, at which they will have the right to be accompanied by a work colleague or Trade Union representative (please contact HR for a template letter). The Head of Service should make the employee aware of the consequences, should their performance continue to fall below the required standards.
- 5.4.3 The Head of Service should be accompanied at the Third Performance Review Meeting by an HR Officer. It is their role to advise on procedure, ensure consistency and equity of treatment and ensure that the letter setting out the decision of the meeting is sent to the employee. The HR Officer may also take notes at the meeting unless the Head of Service decides that an additional note-taker should be present. The manager should also attend the meeting to present the management case.
- 5.4.4 At this meeting, the Head of Service should discuss any performance shortfall, any contributory factors, and any improvement or support required. The Head of Service may issue a Final Written Warning at this meeting. A letter confirming the outcome of the meeting and the details of the warning should be sent to the employee within 5 working days of the meeting and a copy should be kept on the employee's file and regarded as live for 12 months (please contact HR for a template letter). At the end of the meeting (or shortly afterwards) a Third Performance Improvement Plan should be completed, this should be signed by the employee, and a Third Review Period should be set.
- 5.4.5 At the end of the Third Review Period, the Head of Service should meet with the employee and confirm whether they have reached the required standard or not. If the employee has met the required standard this should be confirmed in writing (please contact HR for a template letter).



5.4.6 If, following the Third Review Period, the targets or standards set out in the Third Performance Improvement Plan are still not met or sustained, the Head of Service should meet with the employee informally to discuss the employee's performance, and if necessary advise them that they will be invited to attend a Performance Capability Hearing.

#### 5.5 Improvements in Performance

If the employee's performance improves during a Performance Review Period, another Performance Review Meeting should still be held at the end of the review period, and the employee should be supported in maintaining a sustained level of performance. However, if the employee's performance deteriorates less than a year after a warning is issued, the manager can re-start the Formal procedure at the next level (e.g. if a First Performance Review Meeting has already been held and a First Written Warning issued, the manager can start at the Second Performance Review Meeting).

#### 5.6 Alternative work

Where, despite encouragement and assistance, the employee is unable to reach the required standards of performance, consideration should be given to finding suitable alternative work (this should only happen if the employee and the manager are both in agreement). For example, an employee could be placed on the redeployment list during their Third Review Period, however there must be a time-limit set and a Capability Hearing held, whether the redeployment is successful or not.

#### 5.7 Performance Capability Hearing

At the end of the Third Review Period, a letter should be sent to the employee (please contact HR for a template letter) to explain that as a result of their continued failure to meet the agreed standards, they are being asked to attend a Performance Capability Hearing under this policy, and the outcome of the hearing could be dismissal. The employee should be given at least 10 working days' notice of the hearing, and sent the management statement of case. The employee should provide any supporting evidence at least five working days before the hearing. The employee has the right to be accompanied by a work colleague or Trade Union Representative. The Performance Capability Hearing will involve a reassessment by the Service Director or relevant senior manager of how the employee's performance has been supported by the department.

5.7.1 Please see Appendix D for guidance on Performance Capability Hearings. The Performance Capability Hearing may result in one of the following outcomes (N.B. this list is not exhaustive):

- **Dismissal on the grounds of capability** with redeployment rights where appropriate (and no salary/grade protection). The Head of HR must be consulted on any decision to dismiss.
- **Removal of warnings** - e.g. where the employee has been treated unfairly or inappropriately challenged, perhaps if the performance standards were excessively high.
- **Another Review Period and continued management support** - e.g. where there are exceptional or mitigating circumstances affecting Review Periods.

5.7.2 In each case the outcome must be confirmed to the employee in writing (please contact HR for a template letter). If the outcome is dismissal, the employee must be informed of their right of appeal.

## 6.0 Other Considerations

### 6.1 Serious Incapability

Under normal circumstances, a Performance Capability Hearing should not be conducted without first issuing the employee with warnings and giving them an opportunity to improve their performance with appropriate support. However, in exceptional cases, where one performance error has serious consequences (e.g. if it results in the health and safety of service users or other employees being put in jeopardy), this policy will not apply. Instead the process for gross misconduct, as outlined in the Disciplinary policy, should be used. Where serious incapability is suspected, Human Resources must be contacted for advice before proceeding.

### 6.2 Overlap with other procedures

If conduct, absence and/or performance problems are all happening at the same time, the manager must deal with all issues. In some cases, where there is overlap between procedures, a Performance Review Meeting can incorporate an Ill-Health Review Meeting, and sanctions can be issued under both of these procedures if necessary. Any further action to address the issues (if there is no overlap) should be dealt with separately under the appropriate policy and procedure. Grievance issues may also be dealt with at the same time as performance issues, but a separate meeting should be used for this (see Grievance Procedure). Further advice is available from Human Resources.

6.3 If an employee has a medical problem which is covered by the Disability Discrimination Act, it may be necessary to make reasonable adjustments to their job. See the Absence Management policy for more information.

## **7.0 Appeal**

7.1 All employees have the right to appeal against any formal action of this procedure in accordance with the Council's Appeals Policy.

## **8.0 Policy Review and Amendment**

8.1 This Policy shall be reviewed after two years or sooner in line with legislation and best practice to reflect the best possible level of support and management.

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### Setting SMART Targets

Smart targets should be set in 1-1 meetings and as part of the performance development review process; so that the employee is aware of what targets they are trying to meet, how the targets will be measured, how they are meant to achieve them, how they are relevant and realistic and when the target should be achieved by.

Smart targets stand for:

**S**pecific – this means tasks should be clear and detailed with a clear outcome.

Objectives should specify what they want to achieve; they should be detailed, focused and well defined. If an objective is precise then there is only one way in which it can be interpreted.

**M**easurable - the task should be measurable, so evidence can be used to show that the task has been completed.

Specific goals and targets will often indicate the criteria for success. In each of the goals it should be clear what the employee needs to do to demonstrate their skill or knowledge.

**A**chievable - the task must be achievable.

Helping employees to set achievable goals and targets requires skill and experience. Employees need to experience early and continuing success if they are to remain motivated. However, employees also need to be challenged so that progress is maintained.

**R**

levant/Realistic – State why the target is important.

Employee will have greater motivation to work when they recognise the relevance of the work.

**T**

ime-bound – State when the task should be done and how often.

Employees and Managers need to agree a clear timeframe for goals and targets. Without a clear idea of the timescale involved, goals may appear either too daunting or alternatively not challenging to employees.

### **Writing a Smart target**

**To (Action verb) at (Cost of (if applicable) + Key Result + by date**

E.g. to write a report recommending three new providers that offer the best value for money, at a cost that is at least 10% less than the Council's current provider, for the June Corporate Management Team meeting.

**Performance Improvement Plan**

*To be completed and signed by the manager and employee as part of the Managing Performance Policy*

Name: ..... Directorate : ..... Service ..... Review Period (1<sup>st</sup>/2<sup>nd</sup>/3<sup>rd</sup>)..... Date.....

Performance standard not being met	Objectives/targets required to meet the standard	Support and training to be given to assist reaching the standard	Evidence required to demonstrate the standard is met	Target/deadline for standard to be met and reviewed

*I agree to the content of this document, the actions that are required of me and the objectives as set out in the PDR objectives form (please note the actions required by the manager will be to ensure the appropriate support is given to the employee)*

Signed (Manager) ..... Signed (Employee) .....

### Setting Review Periods

#### Review Periods

The length of the review period will be whatever is reasonable considering the circumstances. This will vary from case to case and will depend largely on:

- The nature and complexity of the work; and
- How long it takes to complete any of the training or other measures agreed

As a guide, a period of between 1 and 3 months would be the expected norm for each separate review period. The review period should allow the employee a reasonable period of time:

- To improve and reach the standard; and
- To maintain the standard

You will also need to bear in mind the type of job. Jobs in which errors can be easily identified would warrant a shorter period of time than jobs where complex decisions or judgments are required. For example, a longer period may be appropriate in the following circumstances:

- Where the employee has worked well over a considerable number of years and performance has recently emerged as a problem.
- Where a member of staff has been moved to a different post and needs time to settle into the new job before being fully assessed (or where they remain in the same post but the job requirements alter)
- Where a change in line manager means that a longer period is needed for fair and accurate assessment.
- Where the employee has a disability and reasonable adjustments need to be implemented in order to assist the employee in carrying out their duties.

In exceptional circumstances a shorter review period may be appropriate i.e. where an employee's performance has been persistently below the required standard and all reasonable supports have been given to the employee with no demonstrable improvement as a result.

If the employee maintains the improved standard, explain to them that:

- Their work is satisfactory; and
- What will happen if the standard slips

If the work becomes unsatisfactory after a period of improvement, treat the lapse as:

- A disciplinary matter – if the employee has proved they are capable of doing the work
- A performance issue – if the improvement has not been sufficient or not been sustained

Managers should consult Human Resources where they are unsure about the appropriate length of the review period.

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### Guide to Performance Capability Hearings

The Service Director is responsible for conducting the meeting and deciding the outcome. If the employee is a Head of Service, a Director who has not been previously involved will conduct the meeting. Once all parties have been assembled, the procedure is as follows:

1. The Director will introduce all those present and briefly explain their roles and explain the reason why the hearing is being held.
2. The Head of Service (supported by an HR Officer) will present their case including an outline of how the employee's performance was supported.
3. The Head of Service may call witnesses to present evidence statements and answer questions if appropriate (witnesses should only be present during the presentation of their own evidence and questioning).
4. The Director will invite the employee (and/or their representative) to ask questions of the Head of Service and their witnesses after each of their presentations.
5. The Director (and/or their HR Officer) may ask questions of the Head of Service and their witnesses after each of their presentations.
6. The employee and/or their representative will then present their case.
7. The employee may call witnesses to present evidence statements and answer questions if appropriate (witnesses should only be present during the presentation of their own evidence and questioning).
8. The Director will invite the Head of Service to ask questions of the employee and their witnesses after each of their presentations.
9. The Director (and/or their HR Officer) may then ask questions of the employee and their witnesses after each of their presentations.
10. The Director will ask the Head of Service to sum up and make concluding statements.
11. The Director will ask the employee (and or representative) to sum up and make concluding statements
12. The Director will then close the meeting to consider the matter, advised by the HR Officer.

13. The decision will be confirmed to the employee, in writing, within 3 working days including details of their right to appeal (please contact HR for a template letter). If the decision can be made on the day the employee will also be notified verbally.

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