

# Managing Employee Performance Policy

## Contents

1.0 Introduction.....	2
2.0 Scope .....	2
3.0 Aims and Objectives .....	2
4.0 Management Responsibilities .....	3
5.0 Employee Responsibilities.....	3
6.0 Managing Employee Performance - Probation .....	4
7.0 Managing Employee Performance - Capability .....	9
8.0 Appeals .....	13
9.0 Equality Statement .....	13
10.0 Data Protection.....	14
11.0 Related Policies and Procedures.....	14
12.0 Key Stakeholders .....	14
13.0 Key Legislation .....	14
14.0 Review .....	14

<b>This policy has been agreed by:</b>	<b>Approval Date:</b>
Policy Forum	14 March 2024
EJCC	18 April 2024

## 1.0 Introduction

The Managing Employee Performance Policy covers the capability procedure and, the probation procedure.

This policy provides guidelines sets out the procedure to follow when dealing with concerns at work regarding performance which directly relate to the capability of an employee to perform the functions of their post to a satisfactory level.

Capability is about an employee's skills, ability, aptitude, and knowledge to undertake their job. Conduct is about an employee's behaviour at work and usually the employee has control over their actions. Where conduct is brought into question, this will usually be dealt with under the Council's Disciplinary Procedure.

## 2.0 Scope

This policy applies equally to all employees of Shropshire Council, with the exception of posts that form part of a school establishment. It is designed to assist and encourage all employees to achieve and maintain acceptable standards of performance. Within the probation period, this will also incorporate conduct concerns.

The probation period forms part of the contractual terms and conditions of employment.

In instances, post probation in situations where an employee's performance is believed to be unsatisfactory because of a deliberate failure or refusal on their part to perform at the required standard, it is advised that the disciplinary policy is followed.

## 3.0 Aims and Objectives

The aim of this policy is to provide guidance for managers and employees to overcome concerns of poor performance.

This procedure seeks to:

- Promote high standards of performance and service provision.
- Assist employees to improve their performance in line with our Shropshire Plan priority of 'Healthy Workforce':
  - Align everything behind our vision/priorities.
  - Tell everyone that Shropshire Council is a great place to be
  - Best workforce
  - Absorb, Adapt, Anticipate
  - Communicate well
  - Align our resources
- Provide a fair and consistent means of dealing with work performance which is below an acceptable level for the role in which the person is employed.

Shropshire Council aims to create a high performing culture. If, following support, performance remains unsatisfactory, employees could ultimately find that their employment is terminated.

## 4.0 Management Responsibilities

The manager has a responsibility to offer advice, assistance and guidance to encourage employees to achieve and maintain acceptable standards of performance. It is expected that managers:

- Support new employees to perform to the best of their abilities by establishing a robust induction programme.
- Establish and communicate the required standards of performance for the post to the employee.
- Hold regular one to one meetings and supervisions with the employee to form a good working relationship and to provide feedback to the employee on their progress in a supportive way, providing advice and guidance.
- Provide the necessary support to enable the employee to demonstrate the expected level of performance in the role.
- Understand the reasons for underperformance and discuss these with the employee.
- Where concerns continue to occur, following the above, address these without undue delay, in line with the procedure outlined within this document.
- Engage Human Resources at an early stage where concerns around capability exist, where advice is required, and before formal proceedings commence.
- Hold meetings in line with this policy and update ERP with the outcomes of meetings.
- Support the employee to understand this policy, including that there is a risk of formal proceedings should the employee fail to meet any requirements for future standards of performance.
- Keep notes of any discussion which may form part of Supervision, one-to-one meetings or Performance Development Plan. It is advisable that copies of any meetings are provided to the employee for their reference. The Line Manager will decide where these notes are saved locally, using the suitable tools available in line with GDPR legislation.

## 5.0 Employee Responsibilities

Employees must demonstrate their suitability for the post, in line with their job description, and may also include their conduct and behaviour within the probation period, in line with Shropshire Council policies and procedures. Agreed objectives must be met within the specified timescales. Employees have a responsibility to:

- Be aware of their responsibility to inform their manager, at the earliest opportunity, if they are experiencing any difficulties.
- Identify and request appropriate training to support them in fulfilling their job role
- Identify areas where support is required
- Adhere to the code of conduct

Employees are advised that they have a responsibility to adhere to the guidelines and procedures of this policy.

## 6.0 Managing Employee Performance - Probation

### 6.1 What is a probation period?

A probation period is a trial period for employment. It allows both the managers and the employee to assess objectively whether the new recruit is suitable for the role, taking into account the individual's overall capability, skills, performance, and general conduct in relation to the job in question. Where an employee within the probation period has conduct brought into question, this may be dealt with under the Council's [Disciplinary Policy](#).

This procedure applies to all new entrants into Shropshire Council. However, it does not apply to employees with continuous, unbroken, local government service if moving into a broadly similar role.

A structured induction programme will help to ensure that all new starters within Shropshire Council have the best opportunity to perform to their best abilities, in line with the Council's vision and values.

Managers have a responsibility to undertake the review meetings set out below, regardless of whether there are concerns about capability or conduct. These reviews are an opportunity to identify strengths as well as areas for development.

### 6.2 Duration

The probation period is a structured programme of review meetings held over the course of three to twelve months. In most instances this is six months, with some exceptions (e.g., twelve months for those undertaking the ASYE programme within Adults and Children's Services and two years for Centrally Employed Early Careers Teachers). The applicable probation period will be outlined within the job description and the written statement of particulars for the role. The probation period is aimed at assessing and reviewing the employee's performance and suitability for the role.

Alongside regular informal meetings such as one to ones and supervisions, formal reviews must be held prior to the end of:

	<b>First Review</b>	<b>Second Review</b>	<b>Final Review</b>
<b>Most Corporate Staff</b>	Month Two	Month Four	Month Six
<b>ASYE Programme</b>	Month Three	Month Six	Month Twelve
<b>Early Careers Teachers</b>	See specific guidance at <a href="https://www.gov.uk/government/publications/early-career-framework">https://www.gov.uk/government/publications/early-career-framework</a>		

The probation period will include:

- Regular monitoring of the employee's performance through progress review meetings, informal catch ups, and induction/onboarding programme
- Identification and discussion between the manager and employee of any areas of difficulty or challenge, at the earliest possible opportunity, including where performance standards are not being achieved
- Feedback to the employee on how they have met work standards and their strengths
- The provision of regular constructive feedback
- Supervisory support and guidance
- The provision of any necessary training and coaching and support, within reasonable parameters, set by the line manager
- Setting and reviewing performance objectives
- Addressing any health and safety, equality, and diversity issues

### **6.3 Addressing Performance, Capability or Conduct**

If performance, capability or conduct concerns arise at any point during the probation period the line manager will, at the earliest possible stage, and in discussion with the employee:

- Establish the facts
- Consider possible reasons for the employee not working to the requirements of the job description (underperformance)
- Consider whether any specific training or coaching, formal or informal, is needed to support the employee to meet the required levels
- Consider any disability, health, or other factor(s) which might be impacting on performance.

The procedure may highlight to the manager that the employee has a disability or other needs and that reasonable adjustments may need to be considered at this point to support the employee. This may also initiate discussions about a referral to Occupational Health.

The probation procedure may therefore need to be extended to support any reasonable adjustments to be put in place and their effectiveness is assessed. However, aspects of the employee's capability in the probation period which are not related to the disability or cannot be resolved through reasonable adjustments will continue to be monitored. If a disabled employee is unable to perform their job role, despite all reasonable adjustments having been made, then redeployment to another role will need to be considered and HR should be engaged (see [Redeployment Procedure](#)).

Where any concerns have arisen about the employee's performance and the line manager has discussed these fully and openly with the employee, a Performance Improvement Plan (see Appendix 3) to address the poor performance should be created and agreed.

The improvement plan is designed to clearly set out targets, objectives and timeframes that are required for the employee to demonstrate that they are meeting the required standard. The employee needs to understand if and where they are not achieving the required standard of performance and be advised how they can get there, with support being provided. Early intervention is key to help support the employee to operate at the required level.

The line manager will clearly explain the consequences of underperforming to the employee. The employee will be helped to understand that a continued failure to achieve the required standards could ultimately lead to their employment being terminated.

## **6.4 Probation Review Meetings**

Review meetings will be planned and scheduled at the outset of the employee's employment as part of a structured induction. Line managers have a responsibility to ensure that all probation reviews are completed on time. It is important that the review meetings are undertaken and that both parties engage fully.

Prior to any review meeting, the employee will undertake a self-review of their performance by thinking about how they feel they have performed, and any training needs they may benefit from.

Guidance on how to complete the reviews in ERP can be found via [How to complete the Probation Form.webm](#)

### **6.4.1 First Review**

The manager and employee should already have the meeting planned in their calendar and this is prepopulated within ERP. Adequate time should be set aside to make the meeting meaningful. An hour is sufficient in most instances.

It is expected that the meeting format, as set out in Appendix 2, is followed and the outcome of discussions recorded, along with any actions remembering that this is a supportive process and is designed to get the best out of an employee.

After the first probation review, the manager will consider what the employee has said. If it is evident that the employee is not performing to the required standards, the manager will clearly explain the gaps in performance and the expectations of performance required. The line manager will set, with the employee, clear targets for improvement and document these on the Probation Form on ERP and complete a Performance Improvement Plan (see Appendix 3), which will be formally reviewed at the next review meeting.

A Performance Improvement Plan is a live document and should therefore be continually reviewed, including during day-to-day management meetings with the employee, and progress against it should be updated. This means that feedback in formal meetings about progress made will not come as a surprise.

The line manager is expected to ensure that the employee is aware of this policy and to inform them that continued failure to achieve the required standards could ultimately lead to their employment being terminated.

#### **6.4.2 Second Review**

As with the first review, all employees should have a meeting diarised for the second review. This is another opportunity to assess what has been achieved to date.

Where a Performance Improvement Plan was put in place at the first review, this will be formally reviewed during this meeting. If it is evident that the employee has met the requirements of the Performance Improvement Plan, it will be ended at this meeting. However, if it is evident that the employee has failed to meet the requirements of the agreed Performance Improve Plan and is still unable to meet the standards required in the job description the line manager will write to the employee, giving at least seven calendar days' notice, inviting them to attend a formal meeting. The employee has the right to be accompanied by a colleague or Trade Union representative at the formal meeting.

Equally, new or further concerns may have become apparent within the second review timeframe and therefore a Performance Improvement Plan may be amended or implemented at this stage. Where this is the case, the line manager will create clear targets for improvement, which the employee will be asked to agree, and document these on the Probation Form within ERP and update the Performance Improvement Plan, to be reviewed formally at the next review meeting, and informally at earlier points.

#### **6.4.3 Final Review**

The third review meeting is usually the final probation meeting between the manager and employee. However, it is expected that this meeting does not replace regular, ongoing, one to ones or Performance Development Plans.

At the final review meeting if the line manager feels that the employee has achieved the level of performance required, the probation period will end, and the line manager will confirm this with the employee. It is the expectation that the manager and employee will discuss ongoing support and training and set further objectives which will then be monitored using the performance appraisal process.

Dependent upon start date in the calendar year, the employee will automatically be granted their first increment (see [Annual, Accelerated and Additional Increments Policy](#)).

However, it may be evident when approaching the final review meeting that the employee has not reached the required levels of performance. There are two courses of action available to the line manager in this instance:

- The probation has been successfully completed
- Consideration of dismissal following a formal probation hearing meeting

It is important that this is done in a timely manner as, where a probation period expires without an employee being formally notified that they are entering one of these courses of action, it is deemed that the employee has successfully passed.

The manager should have engaged with HR throughout the process.

## **6.5 Extending the Probation Period**

At any point during the probation period, in exceptional circumstances it may be necessary to extend the probation period. Some examples, may include:

- personal domestic situations,
- ill health or
- where the training support has not been concluded and the line manager has not had an appropriate length of time to fully monitor the employee's performance

Early intervention is important and extension considerations should not be left until the end of the probation period.

In instances where extensions might be necessary, the line manager will, in the first instance, outline the reasons to, and seek full agreement of this from their Assistant Director (or above) and follow any and all advice from HR.

Following this, a letter will be sent to the employee inviting them to attend a formal meeting to discuss the proposed extension and reason for the concerns, giving seven calendar days' notice of the meeting, and scheduled before the end of the current probation period. It is the expectation that the letter will clearly set out the areas of concern and notifying the employee of their right to be accompanied by a Trade Union representative or work colleague.

If appropriate, after considering what the employee has to say at the meeting, a letter will be sent to the employee notifying them of the extension and giving them a right to appeal (see 8.0 Appeals).

The manager will undertake a review of the extension at the end of the extended period, following the same format as set out at 6.4.3, and this will be recorded in ERP under 'third review'. It is expected that this will follow the same format as previous review meetings.

## **6.6 Dismissal during Probation**

If, at any point during the probation period, it becomes apparent that there is little or no evidence that the employee will be able to perform to the required standard of the job by the end of the probation period, the line manager will refer the matter, in the form of a Probation Performance Report, to their Assistant Director (or above), who shall act as Hearing Officer.

The Hearing Officer will receive the report from the line manager and decide whether a formal hearing is necessary. The Hearing Officer will be responsible for managing the probation procedure and, if deemed necessary,



conducting the formal hearing and will have delegated authority to deal with any outcome of the procedure, including dismissal.

Other reasons for consideration of this process may include, minor conduct issues, timekeeping, sickness absence or attendance is unsatisfactory despite being given appropriate support.

The procedure to be followed at a hearing is set out at Appendix 5.

## **7.0 Managing Employee Performance - Capability**

### **7.1 Capability stage**

It can sometimes be difficult to establish whether an employee's poor performance is due to capability or due to lack of effort, motivation, or negligence and in some cases, there may be elements of both. If this is the case, it is expected that a manager will utilise this procedure, rather than starting disciplinary proceedings.

If performance, capability or conduct concerns arise the line manager will, at the earliest possible stage, and in discussion with the employee:

- Establish the facts
- Consider possible reasons for the employee not working to the requirements of the job description (underperformance)
- Consider whether any specific training or coaching, formal or informal, is needed to support the employee to meet the required levels
- Consider any disability, health, or other factor(s) which might be impacting on performance.

Where an employee is struggling to meet performance standards and requires support and encouragement, treating the issue as a capability concern can allow for a more positive outcome.

This procedure is for employees who are no longer subject to a probation period.

### **7.2 Informal capability process for managers and employees**

It is for the manager to decide whether an employee's underperformance requires the use of the formal stage of the procedure, although the manager will initially seek to approach underperformance informally before moving to a formal approach. HR advice should be sought at the earliest opportunity. As soon as either the manager or an employee identifies a concern a discussion should take place.

### **7.3 Informal meeting**

A meeting will be arranged by the manager to discuss how the employee's performance needs to improve to meet required standards, and also to establish any training, support or adjustments that are needed to help achieve the required standards of performance.

Managers are responsible for ensuring that they:

- Give the employee two normal working days' notice of the meeting and inform the employee that the purpose of the meeting is to discuss their underperformance.
- Outline the areas of poor performance, giving clear specific examples of underperformance. It is important that this meeting is undertaken as positively as possible, in order to motivate the employee to improve their performance.
- Explain the improvement sought and how performance will be monitored.
- Agree any support, assistance, or adjustments to help the employee to achieve and maintain the defined standards.
- Complete the Performance Improvement Plan with the employee (Appendix 3).

There is an expectation that the meeting is a two-way conversation as set out in Appendix 1.

If under performance is associated with health concerns the employee may be required to attend an Occupational Health Assessment as part of the procedure (see Sickness Absence Management Policy for more information about Occupational Health). Employees have a personal responsibility to take all reasonable measures to ensure their fitness for work and to strive for positive attendance.

If under performance is associated with underlying personal related issues the manager should signpost the employee to the confidential counselling service, where appropriate.

#### **7.4 Performance Improvement Plan**

A Performance Improvement Plan will be agreed between the manager and the employee so that they know exactly what is expected of them to achieve the required standards and what support and assistance the manager will provide. This can be used at either informal or formal stages.

There is an expectation that the Performance Improvement Plan includes (Appendix 3):

- Agreed timescales to review and monitor performance over a period of between one and three months depending on the requirement of the improvement.
- Review dates and monitoring of standards in respect of agreed objectives and the requirements of the job.
- If appropriate, training specifically directed to facilitate improvement.
- If appropriate, review and agreed variance of workload/objectives.

The Performance Improvement Plan will clearly communicate targets, objectives and timeframes that are required for the employee to demonstrate that they are meeting the required standard. This will mean that the employee understands if they are not achieving and advised how they can get there and

the support that will be provided. Early intervention is key to help support them to operate at the required level.

The manager will provide regular and timely feedback to the employee. The feedback should cover where an employee has performed well, in general aspects, as well as the specific areas that have been highlighted as requiring improvement.

## **7.5 The Formal Capability Process**

It is hoped that no further action, other than normal follow-up meetings e.g. 1-2-1s / supervisions, Performance Development Plans will be necessary. However, where improvement has not met the required standards, or the improvements have not been sustained during the informal capability process the manager should initiate the formal process. If managers have not already informed HR by this stage, they must do so before initiating the formal capability process.

As part of the capability meetings, it is expected that the line manager will review the Performance Improvement Plan with the employee.

If a formal warning is to be issued, it is the expectation that manager will fully inform the employee of the areas of concern, the level of improvement required and the time limit for achieving that improvement.

It is expected that the employee is able to sustain the required level of performance on a continuing basis if it was agreed within the process that the required improvement was met. If improvement is not sustained, over a period of six months following the date of a successful outcome, then the manager can discuss this with HR for consideration for the employee to be immediately progressed to the next stage of the procedure.

At all formal stages of the capability process, the employee has the right to be accompanied by a Trade Union Representative or colleague. If an employee or their trade union representative is unable, for good reason, to attend the formal meetings, a reasonable alternative date will be arranged as soon as possible and within seven working days of the original date.

If an employee is absent from work for a period of time, the time between meetings will be extended proportionately.

### **7.5.1 First Formal Meeting**

It is expected that the manager will make their employee aware that they have concerns about their capability to carry out their role. Following this, the manager will then set up a date for a formal meeting to discuss their concerns in greater detail, giving the employee a minimum of seven calendar days' notice and inform the employee of their right to be accompanied at the meeting by a work colleague or Trade Union representative. The meeting will be chaired by the manager and a HR representative will also be in attendance.

Please refer to Appendix 1 for the process to be followed at the meeting and what to discuss. A discussion point may include looking at redeployment

opportunities within the council. Please refer to the [Redeployment Procedure](#) for more detailed information.

After the first meeting the manager should review the information gathered and decide which of the following courses of action to take:

- No further action is necessary, and the employee can be removed from the process.
- To issue a formal warning (which will remain live on the employee's file for three months). A Performance Improvement Plan will be agreed and the second formal meeting scheduled (two months after the first meeting).
- Where there are still issues of concern and it is necessary to carry on with the process, but no formal warning issued at this time as an extension to the period for review is needed. Where this course of action is decided upon, a further formal review meeting will be required (within the first formal review stage). In these instances, the manager must engage HR who will advise on the course of action following the further review.

A written account of the meeting including what was discussed and the outcome should be provided to the employee. Where appropriate, a follow up Performance Improvement Plan and a date of review should also be agreed and provided to the employee.

#### **7.5.2 Second Formal Meeting**

It is expected that manager will organise the second formal meeting to be held two months after the first formal meeting (or review meeting), giving at least seven calendar days' notice to an employee. The employee will be informed of their right to be accompanied. At this stage the employee's performance will be reviewed against the agreed action points from the previous meeting.

After the second formal meeting the manager will review the information gathered and decide which of the following courses of action to take:

- No further action is necessary, and the employee can be removed from the process.
- To issue a formal warning (which will remain live on the employee's file for six months). A Performance Improvement Plan must be agreed, and the second formal meeting scheduled (two months after the first meeting).
- Where there are still issues of concern and it is necessary to carry on with the process, but no formal warning issued at this time as an extension to the period for review is needed. Where this course of action is decided upon, a further formal review meeting will be required (within the first formal review stage). In these instances, the manager must engage HR who will advise on the course of action following the further review.

A written account of the meeting including what was discussed and the outcome should be provided to the employee. Where appropriate, a follow up

Performance Improvement Plan and a date of review should also be agreed and provided to the employee.

### **7.5.2 Third Formal Meeting**

The third formal meeting must be set up and held two months after the second formal meeting (or review meeting). At least seven calendar days' notice must be given to an employee, and they must be informed of their right to be accompanied. At this stage the employee's performance will be reviewed against the agreed action points from the previous meeting.

After the third formal meeting the manager will review the information gathered and decide which of the following courses of action to take:

- If the agreed targets or action points have been achieved, then the employee should be removed from the process. This decision should be confirmed in writing.
- If the agreed targets or action points have not been met the manager should inform the employee that the process will move to consideration of dismissal.

If the outcome is the second of these two, the line manager will refer the matter, in the form of a Capability Performance Report, to their Assistant Director (or above), who shall act as Hearing Officer.

### **7.6 Consideration of Dismissal**

The Hearing Officer will receive the report from the line manager and decide whether a formal hearing is necessary. The Hearing Officer will be responsible for managing the probation procedure and, if deemed necessary, conducting the formal hearing and will have delegated authority to deal with any outcome of the procedure, including dismissal.

The procedure to be followed for a hearing is set out at Appendix 5.

Where the Hearing Officer determines that there is not a case to answer, the capability process will end, and the employee will be notified of this in writing.

## **8.0 Appeals**

An employee has the right to appeal the decision to issue any formal warning, or dismissal.

Further information can be found at Appendix 5

## **9.0 Equality Statement**

This policy ensures that the Managing Employee Performance Policy relating to probation and capability is implemented in a fair and consistent manner and in line with Shropshire Council's values and priorities and that it does not discriminate against any employee, including on the grounds of one or more protected characteristics (age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex, sexual orientation).

## 10.0 Data Protection

Any personal data collected will be processed in accordance with our Data Handling Policy.

## 11.0 Related Policies and Procedures

- [Sickness Absence Management Policy](#)
- [Disciplinary Procedure](#)
- [Recruitment Policy](#)

## 12.0 Key Stakeholders

Key stakeholders for this policy are employees, Line Managers, Human Resources, and recognised Trade Union Representatives.

## 13.0 Key Legislation

This policy is guided by ACAS Performance Management Guidance.

## 14.0 Review

The policy will be reviewed at regular intervals and no later than two years after its implementation by Human Resources in consultation with Trade Unions.