

School Employee Performance Improvement Procedure



St. Helens Council

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1 Introduction

- 1.1 The school values its workforce and encourages improved performance by putting into place a range of procedures and systems that are vital in achieving excellence in service delivery.
- 1.2 This procedure is to be used in conjunction with the Appraisal Policy, training provision and a range of good management principles. It sets out the steps to be followed by managers when an employee is experiencing difficulties in carrying out their job or some significant element of that job due to a personal or professional lack of competence. For this procedure, lack of capability is defined as a situation in which an employee fails consistently to perform his/her duties to a professionally acceptable standard.
- 1.3 A clear distinction is drawn in these procedures between poor performance due to capability (what someone cannot do even when trying their best) and poor performance due to a wilful refusal or disinclination to work (what someone will not do) or deliberately not doing work as directed. The former is a matter of competence and is to be dealt with under this procedure, whilst the latter examples will be dealt with under the disciplinary procedure. There are separate procedures for dealing with medical incapacity relating to long and short-term absence.
- 1.4 This procedure has been produced following consultation with recognised Trade Unions and its main aim, through support, is to assist employees who are experiencing difficulties to achieve an acceptable level of performance.
- 1.5 Before invoking the following procedure, relevant steps must have been taken within the appraisal process to evidence the under performance.
- 1.6 Within this procedure the emphasis is on supporting and encouraging employees to achieve a consistent and acceptable level of performance, for example through training, coaching, target setting and monitoring. It is essential, therefore, that the employee is made fully aware of the nature of the problem(s) that are evident from the outset via the appraisal process, and receives support and guidance both on a personal and work based level, where appropriate.
- 1.7 The procedure also outlines the action required in cases where an employee's performance does not improve to an acceptable level. Only in circumstances where the employee continually does not meet the required standards of performance, despite the help and support provided, will employment be terminated.

- 1.8 In applying these procedures due account will be taken of a person's disability or their association with a disabled person in accordance with the Equality Act 2010 if applicable.
- 1.9 The purpose of this procedure is to ensure that managers and employees are aware of their obligations, understand the nature of poor performance and how to deal with this successfully. Most poor performance problems can be avoided by ensuring that the relevant rules, standards and procedures are known.
- 1.10 This policy sets out the formal Employee Performance Improvement Procedure and reflects the ACAS Code of Practice on Disciplinary and Grievance Procedures. This procedure applies only to staff about whose performance there are serious concerns that the appraisal process has been unable to address. This procedure replaces the previous Employee Performance Improvement Procedure.

2 Scope

- 2.1 The procedure applies to all staff employed by schools.
 - 2.1.1 The instigation of this procedure in relation to the performance of Head Teacher shall normally be initiated by the Chair of the Governing Body (or other named Governor) who shall inform the Director of Children and Young People's Services.
 - 2.1.2 The Chair of Governors may request support from the Director to appoint or nominate a relevant officer or officers to lead this process. In this instance, the references to Head teacher in this document will be substituted by Chair of Governors or nominated officer as appropriate.
 - 2.1.3 Where a Head teacher is the subject of this procedure the Chair of Governors (or other nominated Governor) will be given the power to issue warnings in line with the procedure. This Governor will not then form part of any potential dismissal or appeal panel.
 - 2.1.4 The Head teacher may delegate the application of this process including the ability to issue warnings to another senior member of staff / manager. Where this is the case all references to Head teacher should be read as the relevant senior officer.

2.2 Principles

The following principles apply to all stages of the procedure:

- The procedure will be applied objectively during all stages and is designed to ensure that employees are treated fairly and consistently.

- Management will clearly define the performance standards required and ensure employees are aware of them. The line manager will play a key role in clarifying expectations and identifying development needs.
- Performance expectations are not limited to the objectives set under the appraisal policy and will include the overall performance of the individual.
- The expectation is that performance will be managed on a day-to-day basis with constructive feedback provided throughout the year. Concerns should have been raised firstly within the appraisal process and the employee given the opportunity to improve their performance to an acceptable level with appropriate support, before the transition to this procedure.
- Employees are expected to participate in all stages of this procedure and have a responsibility to co-operate in improving their performance. An employee's refusal to co-operate will be treated as misconduct and dealt with under the Council's Disciplinary Rules and Procedure for Schools.
- Where appropriate support has been given to assist an employee in improving and sustaining their performance, but their work is still not at the required standard, consideration will be given to reasonable options including alternative employment where appropriate and available.
- Some circumstances may lead to a position where no alternative exists other than to dismiss an employee due to incapacity to carry out the role for which they are employed.

3 Application of Procedure: General Points

- 3.1 A **short procedure** would apply in **very serious cases** where the education of children is in jeopardy, where there are health & safety or safeguarding issues. Examples of this might be where a teacher's classroom control is so poor that no order can be established to enable teaching to take place, or where all the children under a teacher's care fail to progress in that teacher's lessons.
- 3.2 If, during the course of the procedure, alternative employment or change of duties is considered, then such action will only be implemented by mutual agreement.
- 3.3 The procedure should not be delayed by instigation of other procedures.
- 3.4 In the event of an employee becoming absent from work due to sickness during this process, then medical advice will be sought from

the Council's Occupational Health Unit. Each case will be considered individually and it may be appropriate for monitoring and/or formal procedures to continue during periods of sickness absence

- 3.5 Any grievances will be dealt with and consideration will be given on a case-by-case basis. Where grievance and capability cases are related, it may be appropriate to deal with both issues concurrently.
- 3.6 Action in accordance with the procedure will not be taken in respect of a Trade Union Representative until the relevant Local or Regional official has been informed of the action being contemplated.
- 3.7 During this procedure classroom observations may be necessary. Where this is the case at least one observation at each stage will be undertaken by someone other than the Head teacher and where possible, this will be someone from outside of the school.

4 Stage 1: Transition from appraisal to the Employee Performance Improvement procedure

Where a decision has been made to make the transition from the appraisal process to this procedure, steps will have been taken via the appraisal process to raise the concerns with the individual. This will have included the provision of relevant support and a period set for improvement and review. The individual will have received a Notice to Improve letter and a subsequent letter confirming the transition into this procedure. Schools should take advice from Human Resources at this stage and throughout this process.

Notification of meeting

At least five working days' notice will be given of the formal capability meeting. The notification will contain sufficient information about the concerns about performance and their possible consequences to enable the employee to prepare to answer the case at a formal capability meeting. It will also contain copies of any written evidence; the details of the time and place of the meeting; and will advise the employee of their right to be accompanied by a colleague, a trade union official, or a trade union representative who has been certified by their union as being competent.

First formal meeting with Employee

- 4.1 The Head teacher must meet with the employee and his or her representative.
- 4.2 At the meeting the Head teacher will summarise the outcome of the period of improvement and review undertaken in the appraisal procedure and will:
 - Assess the performance against the set targets and expectations
 - Determine whether there are still performance issues
 - Invite a response from the employee
- 4.3 Following time to deliberate the Head teacher, on the basis of the responses from the employee, will make a decision based on the following options:
 - a) If on the basis of the responses from the employee, the Head teacher considers that performance has improved to an acceptable level the employee should be withdrawn from this procedure and will revert back to the Appraisal Policy. This should be confirmed in writing to the employee and the employee advised that if their performance declines within the next 6 months, the employee may either re-enter the

procedure, or this may invoke the disciplinary procedure dependent on circumstances.

- b) A Formal Warning will be issued and the employee will be moved to Stage 2 of this procedure with an improvement period of 4 weeks, where some progress has been made and issues remain. This will be confirmed in writing acknowledging the progress made and the issues remaining. This letter will also confirm the arrangement of a formal review meeting at the end of the improvement period.
- c) Where **very serious concerns exist** and unacceptable progress has been made a **Final warning** will be issued. An improvement period of 4 weeks will be set. This will be confirmed in writing. The letter will also outline the details of unsatisfactory progress. Further the letter will confirm at the end of the review period a decision meeting will be arranged at Stage 4 of this procedure.

4.4 Where option b) or c) is the outcome, the meeting will then continue and the Head teacher will re-visit the action plan and ensure that the plan includes:

- A clear outline of the current standard of work and what the expectation is, identifying improvements to be made
- An outline what other support is to be provided or continued
- What needs to be done, by whom and by when - this includes setting targets and outcomes expected, support, coaching and training required
- The provision of any reasonable and appropriate aids or equipment, where these are required
- How the Head teacher will review performance including monitoring and review dates

4.5 The Head teacher will confirm the time scale (as outlined by option b or c) for improvement to occur, specifying the commencement date. The Head teacher will inform the employee that if the improvement is not achieved more serious action may be taken. In case of a final written warning, this could lead to dismissal at the decision meeting

4.6 The details in 4.4 should be recorded on a template. Example templates can be found at Appendix C. This, along with a letter detailing the outcomes and what happens if the employee does not meet and maintain the standards, should be provided to the employee within five working days.

4.7 Within the period of improvement a fortnightly review will take place and feedback will be given to the employee. A contact for support/mentoring may be provided.

4.8 A written record should be kept of the review sessions including support and advice provided/offered.

5. Stage Two

- 5.1 The improvement period will commence at the date specified by the Head teacher at 4.5.
- 5.2 The formal review meeting will take place at the end of the improvement period confirmed at 4.5.

Stage Two Formal Review Meeting

- 5.3 At the meeting the Head teacher will summarise the outcome of the monitoring and will:
- Assess the performance against the set targets and expectations
 - Determine whether there are still performance issues
 - Invite a response from the employee
- 5.4 The Head teacher will make a decision based on the following options:
- a) If at the end of the review period performance has improved to an acceptable level the employee should be withdrawn from the procedure and will revert to the Appraisal Policy. This should be confirmed in writing and the employee advised that if their performance declines within the next 6 months, they may either re-enter the procedure at stage two or this may invoke the disciplinary procedure dependent on circumstances.
- b) Where no / unsatisfactory progress has been made a Second Formal Warning will be issued and the employee will be moved to Stage 3 of this procedure with an improvement period of 6 weeks. This will be confirmed in writing acknowledging any progress made and the issues remaining.
- c) Where **very serious concerns exist** and unacceptable progress has been made a **Final warning** will be issued. An improvement period of 4 weeks will be set. This will be confirmed in writing. The letter will also outline the details of unsatisfactory progress. Further the letter will confirm at the end of the review period a decision meeting will be arranged at Stage 4 of this procedure.
- 5.5 Where option b) or c) is the outcome, the meeting will then continue and the Head teacher will discuss and provide:
- A clear outline of the current standard of work and what the expectation is, identifying improvements to be made
 - An outline what other support is to be provided or continued
 - What needs to be done, by whom and by when - this includes setting targets and outcomes expected, support, coaching and training required

- The provision of any aids or equipment, where these are required, reasonable and appropriate
 - How the Head teacher will review performance including monitoring and review dates
- 5.6 It is important that attempts are made to ensure that the employee recognises and accepts there is problem and feels that they have an opportunity to indicate how it is to be addressed. **Time can be spent ensuring that the employee understands the procedure and future possible steps and implications for their continued employment**
- 5.7 During the meeting an action plan will again be discussed. The plan will include:
- A clear outline of the current standard of work and what the expectation is, identifying improvements to be made
 - An outline what other support is to be provided or continued
 - What needs to be done, by whom and by when - this includes setting targets and outcomes expected, support, coaching and training required
 - The provision of any aids or equipment, where these are required, reasonable and appropriate
 - How performance will be reviewed.
- 5.8 The Head teacher will confirm the time scale of the review period (as outlined by option b or c) for improvement to occur specifying also its date of commencement. A formal review meeting will be arranged to take place at the end of this review period. The Head Teacher will inform the employee that if the improvement is not achieved this could result in dismissal.
- 5.9 The above details in 5.7 should be recorded on a template. Example templates can be found at Appendix C. This, along with a letter detailing the outcomes and what happens if the employee does not meet and maintain the standards, should be provided to the employee within five working days.
- 5.10 Within the period of improvement a fortnightly review will take place and feedback will be given to the employee. A contact for support/mentoring may be provided
- 5.11 A written record should be kept of the review sessions including support and advice provided/offered.

6 Stage Three

- 6.1 The improvement period will commence at the date specified by the Head teacher at 5.8.
- 6.2 The formal review meeting will take place at the end of the improvement period confirmed at 5.8.

Stage Three Formal Review Meeting

- 6.3 At the meeting the Head teacher will summarise the outcome of the monitoring and will:
- Assess the performance against the set targets and expectations
 - Determine whether there are still performance issues
 - Invite a response from the employee
- 6.4 The Head teacher will make a decision based on the following options:
- a) If at the end of the review period performance has improved to an acceptable level the employee should be withdrawn from the procedure and will revert to the Appraisal Policy. This should be confirmed in writing and the employee advised that if their performance declines within the next 6 months, they may either re-enter the procedure at stage two or this may invoke the disciplinary procedure dependent on circumstances.
- b) Where no / unsatisfactory progress has been made a Final Warning will be issued and the employee will be moved to stage 4 (decision meeting) of this procedure with an improvement period of 4 weeks. This will be confirmed in writing acknowledging any progress made and the issues remaining.
- 6.5 Where option b) is the outcome, the meeting will then continue and the Head teacher will discuss and provide:
- A clear outline of the current standard of work and what the expectation is, identifying improvements to be made
 - An outline what other support is to be provided or continued
 - What needs to be done, by whom and by when - this includes setting targets and outcomes expected, support, coaching and training required
 - The provision of any aids or equipment, where these are required, reasonable and appropriate
 - How the Head teacher will review performance including monitoring and review dates

- 6.6 It is important that attempts are made to ensure that the employee recognises and accepts there is problem and feels that they have an opportunity to indicate how it is to be addressed. **Time can be spent ensuring that the employee understands the procedure and future possible steps and implications for their continued employment**
- 6.7 During the meeting an action plan will again be discussed. The plan will include:
- A clear outline of the current standard of work and what the expectation is, identifying improvements to be made
 - An outline what other support is to be provided or continued
 - What needs to be done, by whom and by when - this includes setting targets and outcomes expected, support, coaching and training required
 - The provision of any aids or equipment, where these are required, reasonable and appropriate
 - How performance will be reviewed.
- 6.8 The Head teacher will confirm the time scale of stage 3 review period (as outlined by option b) for improvement to occur specifying also its date of commencement. A decision meeting will be arranged to take place at the end of this review period. The Head Teacher will inform the employee that if the improvement is not achieved this could result in dismissal.
- 6.9 The above details in 6.7 should be recorded on a template. Example templates can be found at Appendix C. This, along with a letter detailing the outcomes and what happens if the employee does not meet and maintain the standards, should be provided to the employee within five working days.
- 6.10 Within the period of improvement a fortnightly review will take place and feedback will be given to the employee. A contact for support/mentoring may be provided
- 6.11 A written record should be kept of the review sessions including support and advice provided/offered.

7 Stage Four: Decision Meeting

- 7.1 At the end of the review period the Head teacher will inform the employee in writing of the remaining areas of concern and that they are required to attend a **formal decision meeting** at which their performance shall be discussed. The employee has the right to be represented at the meeting by either a work colleague or Trade Union Representative.
- 7.2 The school will convene a relevant panel, which has the power to dismiss in accordance with the delegations agreed by the Governing Body. The employee shall be given ten working days notice of the Decision meeting. Documents should be exchanged by either side a minimum of 5 working days prior to the hearing.
- 7.3 The Decision meeting will be conducted in accordance with the procedure outlined at **Appendix A**.
- 7.4 Members of the Panel will consider all the information relating to the case and if appropriate, the employee will be informed that the Panel have decided to make a determination to dismiss the employee. Dismissal will be with notice. This will be confirmed in writing within 5 working days.
- 7.5 Should the Panel not dismiss, they may decide on appropriate action, which may include setting a further period of monitoring, returning to an earlier part in the procedure or removing the employee from the procedure.

8 Right of Appeal

- 8.1 The employee does have the right to appeal against any formal warnings issued under this procedure or the decision taken by a Panel to dismiss. To exercise the right of Appeal, the employee must inform the Chair of the Appeals Committee **in writing**, within **10 working days** from receipt of the letter outlining the formal warning or decision to dismiss. The Chair of Appeals Committee shall arrange for a relevant Panel to meet to hear the appeal.
- 8.2 Any appeal will not interrupt any stage of the procedure. Decisions will be retrospective should an appeal be successful.
- 8.3 The Appeal will be conducted in accordance with the procedure outlined at **Appendix B**.

Appendix A

Order of Presentation for a Decision Meeting

1. The Chair introduces all parties present.
2. The Head teacher, accompanied by an HR representative presents the case and calls witnesses as necessary. Witnesses are questioned as follows:
 - a) by the Head teacher and Advisor
 - b) by the employee or Trade Union Representative
 - c) by the members of the Panel
 - d) the Head teacher and Advisor has the right of re-examination
3. The Trade Union Representative presents the case on behalf of the employee and calls any witnesses as necessary. Witnesses are questioned as follows:
 - a) by the employee or Trade Union Representative
 - b) by the Head teacher and Advisor
 - c) by the members of the Panel
 - d) the employee or Trade Union Representative has the right of re-examination
4. The Headteacher summarises the case.
5. The employee or Trade Union Representative summarises the case.
6. The Chair of the Panel requests both parties to withdraw but may call upon either party, in the presence of the other, for a point of clarification.
7. The Chair recalls both parties and conveys the decision of the Panel orally in the presence of the parties.

*** As detailed in 2.1.4 of the procedure, all references to Head teacher should be read as the relevant senior officer.**

Appendix B

Order of Presentation for Appeal

The process set out below is to be followed by the Appeals Panel

1. The Chair shall explain the purpose of the meeting and invite all parties present to introduce themselves.
2. The employee or Trade union Representative presents the case on behalf of the employee, witnesses may be called as necessary and questioned as follows:
 - a) by the employee or Trade Union Representative
 - b) by the Head teacher and HR Representative
 - c) by members of the Appeals Panel
 - d) the employee or Trade Union Representative has the right of re-examination
3. The Chair shall invite the Head teacher / HR Representative to present the case, witnesses may be called as necessary and questioned as follows:
 - a) by the Head teacher and HR Representative
 - b) by the employee or Trade Union Representative
 - c) by members of the Appeals Panel
 - d) the Head teacher and HR Representative have the right of re-examination
4. The Chair shall invite the Head teacher/ HR Representative to summarise the case.
5. The Chair shall invite the employee or Trade Union Representative to summarise the case.
6. The Chair shall request that both parties withdraw but may recall either party, in the presence of the other, for a point of clarification.
7. The Chair recalls both parties and conveys the decision of the committee orally.

*** As detailed in 2.1.4 of the procedure, all references to Head teacher should be read as the relevant senior officer.**

TEMPLATE EXAMPLES

Please note that any combination of these can be used or amended to best suit the specific need. The templates are best used in landscape format.

Example 1

Action Plan/Monitoring Form - (Name)

Expected Standards Of Work	Current Standard Of Work	Areas For Improvement	Support, Equipment, Coaching Or Training Required	How /When Measured

Example 2

Action Plan/Monitoring Form - (Name)

Area For Improvement	Objectives	Support to be provided and by whom	Monitor

Example 3

Action Plan/Monitoring Form - (Name)

Required Standard Of Work	Current Standard Of Work	Objectives	Support, Coaching Or Training Required	How Measured