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# Performance Improvement/Capability Procedure

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## Document Control

<b>Current Version:</b>	1.3	<b>Date Modified:</b>	February 2024
<b>Revision due</b>	The service aims to review policies and procedures every two years to ensure documents are up to date		
<b>Owning Service</b>	Human Resources		

## Approvals (if required)

<b>Date Employment Committee gave authorisation for changes (where necessary)</b>
7 February 2024

## Change History

Version	Date	Description	Changes made by
1.3	February 2024	Streamline the process with fewer stages. Amend appeal process so appeals go to another Director (except in circumstances where the employee is a Director).	Pauline Meredith
1.2	June 2022	General update, addition of Equality statement, addition of information about holding meetings remotely, addition of Redeployment process, scope changed to include Assistant Director, Director or Executive Director and clarification of procedure for a case against them.	Sarah Darby
1.1	February 2019	Amended to remove reference to departmental HR and BORIS – now reads intranet	Melissa Berry

**BRACKNELL FOREST COUNCIL'S**  
**PERFORMANCE IMPROVEMENT/CAPABILITY PROCEDURE**

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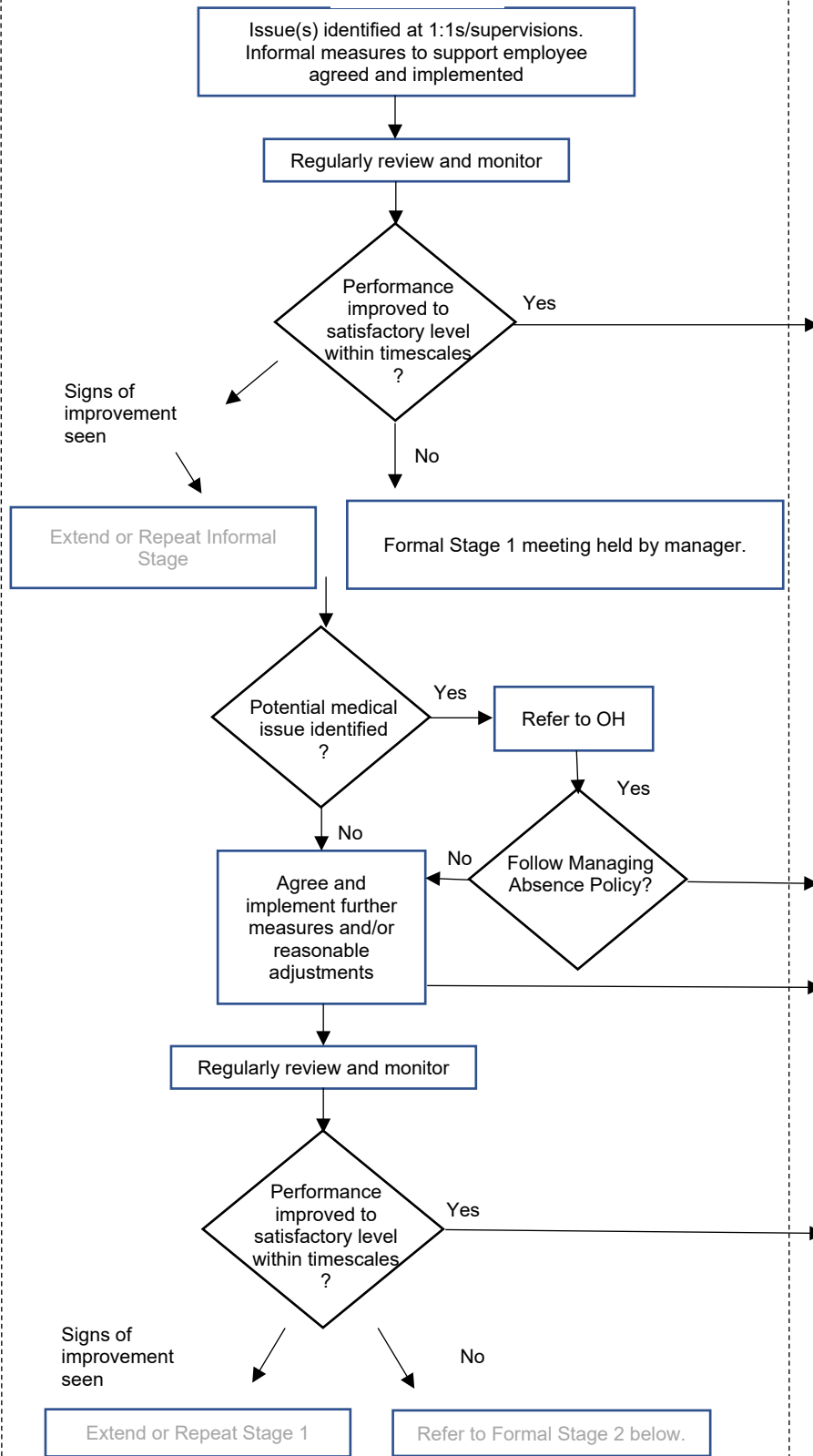
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# PERFORMANCE IMPROVEMENT & CAPABILITY FLOWCHART

## OPPORTUNITY FOR RESOLUTION

**STAGE**  
Informal

### PROCESS



Formal Stage 1

Right to appeal

Performance improved to satisfactory level. Normal monitoring via 1:1s or supervision resumes

Refer to HR or Managing Attendance Policy

Potential temporary or permanent redeployment

Performance improved to satisfactory level. Normal monitoring via 1:1s or supervision resumes

**STAGE**

**PROCESS**

Formal  
Stage 2

Formal Stage 2 meeting held by Director

Measures or actions decided by Director and communicated to employee.

Potential temporary or permanent redeployment

Right to appeal

employee dismissed ?

Yes

No

Regularly review and monitor

Dismissal

Performance improved to satisfactory level within timescales ?

Yes

Performance improved to satisfactory level. Normal monitoring via 1:1s or supervision resumes.

# **BRACKNELL FOREST COUNCIL'S PERFORMANCE IMPROVEMENT/CAPABILITY PROCEDURE**

## **1 INTRODUCTION**

The Council's Performance Improvement/Capability procedure ensures that there is a consistent and fair approach to managing issues with employees 'performance and capability. The main aim of this procedure is to establish the reasons behind the performance issue(s) so that an employee can be supported to improve to an acceptable level of performance.

It is the responsibility of all managers to ensure they attend relevant training and awareness sessions to enable them to manage employee's performance in a mindful and compassionate manner, and for all managers and staff to promote wellbeing throughout Bracknell Forest Council (the Council).

## **2 EQUALITY**

At the Council we are committed to encouraging equality, diversity, and inclusion among our workforce, and eliminating unlawful discrimination. We want everyone that works for us to feel that their individuality is respected, and their unique contributions are valued.

The aim is for our workforce to be truly representative of all sections of society and our customers, and for each employee to feel respected and able to give their best.

The Council - in providing goods and/or services and/or facilities - is also committed against unlawful discrimination of customers or the public.

## **3 PURPOSE**

The Performance Improvement/Capability Procedure applies when an employee is unable to perform their contractual duties to an acceptable standard due to; their level of ability, ill health or any other reason not connected to misconduct.

A separate procedure exists for Managing Attendance, covering short and long-term absence, which should be referred to in conjunction with this procedure if it becomes clear that ill health is contributing to performance issues, and/or if the employee is absent from work.

This procedure covers all stages of performance management, from initial informal discussions through to a formal process which may result in dismissal.

The Council's procedure exists to ensure fair and effective arrangements are in place for dealing with performance improvement matters.

## **4 PRINCIPLES**

- All references in the procedure to "Director" will also mean Executive Director or Assistant Director or other 2nd tier officer who may act in place of the Director.

- How performance is measured must be consistent across the team. This might involve managers setting their employees objectives and/or expected behaviours. The measurements that are set must be fair and must not be discriminatory.
- Wherever possible, managers are encouraged to address and resolve performance improvement issues, informally, or example at one-to-ones.
- Any employee who enters Formal Stage 1 and 2 of the procedure will be entitled to be accompanied by a trade union representative or work colleague of their choice. For the purposes of the procedure, any informal meetings are regarded as meetings/interviews convened by management and the right to be accompanied does not apply.
- Employees should be willing to do everything they reasonably can, with the Council's support, to address performance issues. An employee will always be given a clear explanation of the nature of any concerns raised, consulted appropriately, and allowed an opportunity to respond.
- Time limits will be given for improved performance and a review date set to assess whether the improvement has been achieved.
- All reasonable measures will be considered to support employees, including looking at redeployment opportunities.
- Where necessary advice should be sought from the Occupational Health Service if a medical problem is evident.
- Care should be exercised if the identified shortcomings in performance could have the effect of putting any child, young person, or vulnerable adult at risk in any way. If there is a concern this could be the case, managers should contact the Safeguarding Team or Local Authority Designated Officer (LADO) for further advice before proceeding in any way. Details can be found on the [Safeguarding children and adults at risk](#) page of the intranet and in Appendix F.
- Employees must be advised that failure to improve their performance within a specified timeframe, having explored all opportunities for improvement, could lead to invoking Formal Stage 2 of this procedure and dismissal.
- No employee will be dismissed on grounds of poor performance without first going through the stages of this procedure.
- When carrying out this procedure managers may also refer to other relevant policies and guidance such as:
  - Managing Attendance
  - Stress at Work
  - Substance Misuse
  - Domestic Abuse

- Agile Working
- Information about [reasonable adjustments](#)
- [Menopause awareness](#)
- No action beyond the informal stage will take place with an employee who is a recognised trade union official until the circumstances of the case have been discussed by the Designated Officer and HR with a full-time Union official or other appointed official of the employee's Trade Union.
- A member panel will hear any case against an Executive Director, Director or Assistant Director, and a separate member panel will hear any subsequent appeals.
- The performance of all policies/procedures will be reviewed annually as part of the Workforce Monitoring Report.

## **5 EMPLOYEE SUPPORT**

The Council acknowledges that going through a Performance Improvement/Capability process can be a stressful and unsettling time for all parties, and encourages anyone who feels they need support to seek this through any of these methods:

- trade union representative (if they are a member of a trade union)
- the [Employee Assistance Programme](#) which provides 24/7 telephone counselling.
- speaking to their manager for support, or to arrange a confidential buddy.
- speaking to an [Equality Ally](#) if there is an equality issue.
- speaking to a Mental Health First Aider.

## **6 SCOPE - EMPLOYEES COVERED BY THE PROCEDURE**

This procedure applies to all employees of Bracknell Forest Council, except for:

- a) School based staff (see separate School policy)
- b) Employees in their probationary period.
- c) Casual Workers

In the case b) and c) above, performance will be managed as part of one-to-one/supervision meetings and probationary reviews - [Probationary Periods](#).

## **7 THE CONDUCT OF A PERFORMANCE IMPROVEMENT/CAPABILITY CASE**

### **7.1 Carrying out meetings remotely**

All meetings should be carried out face to face unless there is a specific reason this is not feasible. Before deciding whether to carry out a meeting remotely or using a hybrid method it is important to consider if:

- everyone involved has access to the technology needed for video meetings, for example the necessary equipment and internet connection, and all parties agree to have their cameras switched on.

- anyone involved has any disability or other accessibility issues that might affect their ability to use video technology, and whether any [reasonable adjustments](#) might be needed
- it's possible to obtain all the evidence needed for the investigation or meeting, for example records or files that are kept in the office or workplace.
- any witness statements or other evidence can be seen clearly by everyone involved during an interview or meeting and provided in advance where appropriate.
- it will be possible to fairly assess, and question evidence given by people interviewed during a video meeting.
- it is possible for the person under investigation to be fairly and appropriately accompanied during the meeting

## 8 STAGES OF PROCEDURE

When it becomes apparent to a manager there may be concerns with an employee's performance and it needs to be examined more closely, the steps below should be taken.

Should performance improve to an acceptable level during the process, this should be recorded formally, and the employee should be made aware that review meetings under the procedure are being discontinued at that time. However, it must be made clear that a deterioration in performance may lead to the procedure being reinstated, and if there are no new mitigating circumstances then earlier stages may not be repeated.

### 8.1 Informal stage

If a manager has concerns regarding an employee's performance, where appropriate these should be addressed on an informal basis which may include one-to-one/supervision meetings (or other informal discussion) and should be noted in one-to-one/supervision notes.

These can be used to:

- Identify areas of concern at an early stage
- Clarify the standards required
- Establish and address any causes of poor performance
- Establish whether there is a potential medical problem which needs a referral to Occupational health
- Identify any training needs or other support
- Set expectations for improvement

The manager should take time to question and listen to the employee to establish possible reasons for the unsatisfactory performance, and ensure they understand the expected levels of performance.

The employee should be informed of the consequences of failing to achieve the required improvement in performance in the required timeframe. The manager



must provide the employee with clear written targets/SMART objectives for improving their performance.

The matters discussed, and the proposed actions/measures and review period, should be noted and confirmed to the employee in writing. Regular review meetings on these actions will form part of the informal stage of the procedure with full notes being taken at each review. At the end of the specified period a meeting to review performance will take place between the manager and the employee. The manager should book review meetings in the diary as regularly as necessary.

If at the review meeting there have been signs of improvement but not sufficiently enough to meet the expected standards set, the manager may extend or repeat the informal stage. The manager will need to explain this to the employee and inform them of the expected improvement required in writing.

## **8.2 Formal Stage 1- Formal Action**

If informal measures prove to be unsuccessful, a Designated Officer will be appointed. Not less than five working days' notice will be given of a Stage 1 Performance Meeting, this meeting and any subsequent action will follow the procedure laid down in Appendix A and will be conducted by the Designated Officer. Outcomes may include a final written warning to improve.

The manager will provide a report to the Designated Officer which will include details of the performance issues and of action to date to address the problem.

Review meetings may form part of the identified measures/action plan at Stage 1.

The employee must be informed of the consequences of failing to achieve the required improvement in performance in the timeframe and that this may result in escalation to formal Stage 2 of this procedure, which could lead to dismissal.

Determining what is a reasonable timescale between review meetings and between stages will be on a case-by-case basis. Managers can refer to HR for advice on specific cases.

Individuals who may have a medical problem will already have been referred to the Occupational Health Service. If the Occupational Health Service recommends early retirement on ill health grounds, then the Performance Procedure will cease and be replaced by the ill health retirement procedure which is outlined in Managing Attendance policy. Please speak to an HR Advisor for further guidance.

At the end of the specified period, a meeting to review performance will take place between the Designated Officer and the employee. A letter will be sent confirming if the performance has improved to a satisfactory level, and the process is therefore ending, or if the performance has not improved, and will be extended or referred to a Director for resolution at a Stage 2 meeting. The meeting will follow the procedures laid down in Appendix B. Dismissal is a possible outcome.

### **8.3 Formal Stage 2 – Final stage**

Where an employee is continuing to fail to perform to an acceptable standard despite having been given guidance and support at both the informal stage and formal stage 1, the matter will be referred to a Director for resolution. The employee will be invited to a Stage 2 meeting, with at least five working days' written notice given. This meeting and any subsequent action will follow the procedures laid down in Appendix B and will be conducted by a Director. The employee has the right to bring a union representative to the meeting.

The Designated Officer will provide a report to the Director which will include details of the performance issues, and of action taken to date to address the problem. Dismissal is a possible outcome. See Appendix E.

A right of appeal exists in accordance with Appendix D.

## **9 POTENTIAL OUTCOMES**

In situations where the employee does not attain the standards of performance required, the Designated Officer may decide that a Final Written Warning should be issued at Stage 1. It should be noted that any decision to dismiss can only be taken at Stage 2, following the final written warning being issued at Stage 1.

Formal warnings can only be given at Formal Stages 1 and 2.

The Designated Officer can also decide to withhold an increment (Stage 1 or 2).

In medical cases the Occupational Health Service will be contacted. The outcome depends on the nature and severity of the medical condition and whether the prognosis indicates a reasonable chance of recovery and return to work. Measures recommended by Occupational Health may include:

- change in duties or hours.
- reasonable adjustments to the working environment
- redeployment to a suitable alternative role (this may be on a temporary basis as a temporary adjustment, or on a permanent basis).

In such cases it will be for the Designated Officer to decide if the changes recommended can be accommodated. Further discussion with HR and Occupational Health will be required if the recommendations cannot be fully adopted.

In cases where the Equality Act may apply, reasonable adaptations to the work or the work environment may need to be made. Please consult HR for advice before proceeding.

## **10 INFORMAL/ FORMAL MEASURES TO SUPPORT PERFORMANCE IMPROVEMENT**

There are different measures that can be implemented to help support an employee to improve their performance, which could include:

- Identifying training/retraining requirements
- Setting SMART objectives for improving performance with regular review meetings.
- Considering reasonable adjustments to working practices
- increased supervisory support/coaching on a temporary basis.
- reviewing work targets
- regular performance reviews
- considering redeployment to suitable alternative work (this may also be appropriate following medical advice, at the discretion of the Designated Officer and after discussion with the HR team). See Section 8 – Redeployment.

## **11 REDEPLOYMENT**

When the outcome is for redeployment, the employee will be invited to a meeting with an HR Advisor to discuss the redeployment process. The employee may be accompanied at a redeployment meeting by a Trade Union representative and the manager may also attend. At the meeting, the employee's skills, experience and abilities will be discussed and which types of posts may be suitable or unsuitable for redeployment.

The employee will also be responsible for identifying redeployment opportunities advertised within the Council.

Where a post is identified as potentially suitable, the employee should apply for the post, making it clear that they are in a redeployment situation. The HR Advisor must be informed that the application has been submitted and will notify the recruiting manager that it is a redeployment situation and if the employee meets the essential requirements of the person specification they must be shortlisted for interview.

The Council cannot indefinitely employ an individual whilst seeking redeployment opportunities. Therefore, the redeployment process will operate for a limited time only, normally up to three months. If no suitable alternative post is found within this period, then a Formal Stage 2 meeting will be arranged the outcome of which may be dismissal (see Appendix B).

## **12 HEALTH ISSUES: LINK TO GUIDANCE ON MANAGING ATTENDANCE**

The effects of chronic illness or permanent disability are different from those caused by frequent short-term absence. Some health problems, such as menopause, may not cause absence but have an adverse effect on the ability of the employee to perform their job satisfactorily. Where this is the case, the individual should be referred to Occupational Health for advice on whether there are any reasonable adaptations that should be considered. However, where performance at work is adversely affected, the existence of health issues will not in itself prevent the manager from continuing with Performance Improvement Procedures.

Parallel procedures exist for managing short and long-term sickness absence issues, and the manager should consider whether [Managing Attendance Procedures](#) should be applied (starting at an equivalent level of the Procedure) if a performance issue begins to manifest itself as a health-related absence problem.

## **APPENDIX A – FORMAL STAGE 1 MEETING PROCEDURE**

### **Prior to the Meeting**

A letter giving at least five working days' notice of the meeting will be sent to the employee outlining the matters to be dealt with at the meeting and reminding the employee of their right to representation and to call witness(es). The employee will also receive copies of any papers which are to be produced by the Designated Officer at the meeting, and the names of any witnesses.

The employee should supply to the Designated Officer, at least three working days prior to the meeting, copies of any documents which they intend to produce and indicate which, if any, witnesses are to be called.

The Designated Officer may ask for an HR Advisor to be present at the meeting, however this is not compulsory.

### **At the Meeting**

- a) The circumstances, as supported by any documentary evidence and witnesses, will be put by the manager to the Designated Officer and the employee and/or their representative. The manager may call witnesses if appropriate.
- b) The employee and/or their representative will be entitled to ask questions of the manager and witnesses relating to that evidence.
- c) The employee and/or the representative will put their case and be able to call such witnesses as they wish.
- d) The Designated Officer will have the opportunity to ask questions of the employee, their witnesses, and the manager.
- e) The parties will have the opportunity to sum up their cases if they so wish.
- f) The parties and their witnesses will withdraw.
- g) The Designated Officer (with the HR representative if attending as adviser), will deliberate in private, recalling the parties only to clear any points of uncertainty on evidence already given. If recall is necessary both parties should return, notwithstanding only one may be concerned with the point in question.
- h) The Designated Officer will announce their findings and the action they intend to take to the parties, preferably immediately or within a reasonable time after the meeting. This will then be confirmed in writing, within five working days of the meeting.

The letter will specify the action taken, together with any review arrangements and right of Appeal (See Appendix C).

## **APPENDIX B – FORMAL STAGE 2 MEETING PROCEDURE**

### **Prior to the Meeting**

A letter giving at least five working days' notice of the meeting will be sent to the employee (see Appendix F – Sample Letters) outlining the matters to be dealt with at the meeting and reminding the employee of their right to representation and to call witnesses. The employee will also receive copies of any papers which are to be produced at the meeting, and the names of any witnesses.

The employee should supply to the Director, at least three working days prior to the meeting, copies of any documents which they intend to produce and indicate which, if any, witnesses are to be called by the employee.

### **At the Meeting**

- a) The circumstances, as supported by any documentary evidence and witnesses, will be put by the Designated Officer to the employee and/or their representative.
- b) The employee and/or their representative will be entitled to ask questions of the Designated Officer and witnesses relating to that evidence.
- c) The employee and/or the representative will put their case and be able to call such witnesses as they wish.
- d) The employee and/or witnesses may be questioned by the Designated Officer.
- e) The Director will have the opportunity to ask questions of the employee and their witnesses and of the Designated Officer and/or their witnesses.
- f) The parties will have the opportunity to sum up their cases if they so wish.
- g) The parties and their witnesses will withdraw.
- h) The Director (with the HR Advisor attending) will deliberate in private, recalling the parties only to clear any points of uncertainty on evidence already given. If recall is necessary both parties should return, notwithstanding only one may be concerned with the point of issue.
- i) The Director will announce their findings and the action they intend to take to the parties, preferably immediately or within a reasonable time after the meeting. This will then be confirmed in writing within five working days of the meeting.

The letter will specify the action taken, together with any review arrangements and right of appeal (see Appendix D).

## **APPENDIX C- RIGHT OF APPEAL PROCEDURE**

An employee has a right of appeal against action taken by a Designated Officer/Director. The right of appeal may be for one of the following reasons and will be a complete review of the case:

- a) Where the employee considers that the Designated Officer/Director has unjustly found against them.
- b) Where the employee contends that a matter of fact referred to at the meeting has not been properly taken into account by the Designated Officer/Director in reaching their decision.
- c) Where the employee feels that the action taken by the Designated Officer/Director has been too severe.

The employee must exercise their right of appeal within five working days of receiving confirmation of the outcome of the performance improvement meeting. The letter will provide details of who the employee should appeal to and the employee should specifically detail why they are dissatisfied with the outcome.

The Appeal will be held within 10 working days of the written notification of intention to appeal. The HR Advisor will act as adviser.

### **Prior to the Meeting**

The Director hearing the appeal will give notice in writing to the employee (see Appendix F – Sample Letters) at least five working days in advance of the time and place of appeal. All documents relevant to the appeal will be attached to this letter, as well as names of any witnesses.

The employee should supply to the Director hearing the appeal at least three working days prior to the appeal, copies of any documents which they intend to produce and indicate which, if any, witnesses are to be called. The employee is responsible for arranging attendance of their own witnesses and representative.

### **At the Meeting**

- a) The Designated Officer/Director will put the case to the Director hearing the appeal in the presence of the employee and their representative (if any) and may call witnesses.
- b) The employee (or their representative) will have the opportunity to ask questions of the Designated Officer/Director and witnesses on the evidence given by them.
- c) The Director hearing the appeal may ask questions of the Designated Officer/Director and witnesses.
- d) The employee (or their representative) will put their case in the presence of the Designated Officer/Director and call such witnesses as they may wish.

- e) The Designated Officer/Director will have the opportunity to ask questions of the employee and witnesses on the evidence given by them.
- f) The Designated Officer/Director and then the employee (or their representative) can sum up their case if they wish.
- g) The Designated Officer/Director, the employee and their representative, and the witnesses will withdraw.
- h) The Director hearing the appeal together with the HR Advisor will deliberate in private only recalling the Designated Officer/Director and the employee to clear points of uncertainty on evidence already given. If recall is necessary, both parties are to return, notwithstanding only one may be concerned with the point in question.
- i) The Director hearing the appeal will, if possible, announce the decision to the parties immediately or as soon as possible, and confirm in writing within five working days.

The decision of the Director hearing the appeal will be final.

All references in the procedure to "Director" will also mean Executive Director or Assistant Director or other 2nd tier officer who may act in place of the Director.

Any appeal against the outcome of a Designated Officer at stage 1 will be heard by a Director.

Appeals against dismissal made by a Director may be heard by another Director not previously involved in the process

There may be occasion where it is appropriate to appoint a Director from another Department to hear the case,

### **Where the appeal involves a case against an Assistant Director/Executive Director**

If the appeal is relating to a case against a Director, the appeal will be heard by a Panel of elected Members. The employee must exercise the right of appeal within five working days of receiving confirmation of action taken against them. The letter indicating the employee's intention to appeal should be addressed to the Assistant Director: HR.

The Appeal heard by a Panel of elected Members will be held within 20 working days of the written notification of intention to appeal. The Assistant Director: HR or their nominated representative will be the officer appointed as Secretary to the Appeals Panel. The Chairperson (in the case of a Member appeal) or Director, if possible, will announce the decision to the parties immediately and confirm in writing within five working days. The decision of the Appeals Panel will be final.

## **APPENDIX D – APPEAL AGAINST DISMISSAL (STAGE 2 APPEAL) PROCEDURE**

An employee has a right of appeal against a dismissal action taken by a Director. The appeal will be heard by another Director not involved with the previous decision. The right of appeal may be for one of the following reasons and will be a complete review of the case:

- a) Where the employee considers that the Director has unjustly found against them.
- b) Where the employee contends that a matter of fact referred to at the meeting has not been properly taken into account by the Director in reaching their decision.
- c) Where the employee feels that the action taken by the Director has been too severe.

The employee must exercise the right of appeal within five working days of receiving confirmation of action taken against them. The letter indicating the employee's intention to appeal should be addressed to the Assistant Director: HR or their nominated representative.

The Appeal will be held within 20 working days of the written notification of intention to appeal.

### **Prior to the Meeting**

The Director hearing the appeal will give the employee at least five working days' notice of the time and place of meeting. All documents relevant to the meeting will be attached to this letter, as well as names of witnesses.

The employee should supply to the Director, at least three working days prior to the appeal, copies of any documents which they intend to produce and indicate which, if any, witnesses are to be called. The employee is responsible for arranging attendance of their own witnesses and representative.

### **At the Meeting**

- a) The previous Director will put the case to the Director hearing the appeal in the presence of the employee and their representative (if any) and may call witnesses. The Designated Officer and/or manager will be available to assist the previous Director, as necessary.
- b) The employee (or their representative) will have the chance to ask the Director and witnesses questions on the evidence given by them.
- c) The Director hearing the appeal may ask questions of the Director and witnesses.
- d) The employee (or their representative) will put their case in the presence of the Director and call such witnesses as they may wish.
- e) The Director hearing the appeal will have the opportunity to ask questions of the employee and witnesses on the evidence given by them.



- f) The Director and then the employee (or their representative) will have the opportunity to sum up their case if they so wish.
- g) The previous Director, the employee and their representative, and the witnesses will withdraw.
- h) The Director hearing the appeal (together with the Assistant Director: HR) will deliberate in private only recalling the Director and the employee to clear points of uncertainty on evidence already given. If recall is necessary, both parties are to return, notwithstanding only one is concerned with the point in question.
- i) The Director hearing the appeal will, if possible, announce the decision to the parties immediately, or as soon as possible and confirm in writing within five working days.

The decision of the Director hearing the appeal will be final.

#### **Where the appeal involves an Assistant Director/Executive Director**

Where an Assistant Director/Executive Director is dismissed following the Performance Improvement procedure, their appeal should be heard by a Members appeal panel as outlined in Appendix C.

## **APPENDIX E – ROLES AND RESPONSIBILITIES**

The list of Designated Officers can be found on the intranet.

A Designated Officer may take a range of actions to help and assist the employee to improve performance. However, they will additionally have the power to impose any of the following in Stage 1:

- Transfer to alternative duties or a lower graded post for a specified period of time or permanently, as a form of redeployment.
- Withholding of increments until satisfactory performance is achieved.
- Final Written warning – this would indicate that dismissal for capability reasons might be an outcome if the improvements required are still not achieved. (The warning will be for up to 24 months but may, in certain circumstances be left on file for an unlimited period of time.)

Where a judgement is made by the Designated Officer that the continued performance problem may be dismissible (e.g., this may result from failure to heed a final written warning), a referral will need to be made to the Director to proceed to Stage 2.

As well as the range of actions outlined above, the Director will have the ability to dismiss.