

# Improving Performance Policy



## Index

<b>INDEX.....</b>	<b>2</b>
<b>1 INTRODUCTION .....</b>	<b>3</b>
<b>2 SCOPE.....</b>	<b>3</b>
<b>3 RESPONSIBILITIES .....</b>	<b>3</b>
<b>4 FACTORS AFFECTING PERFORMANCE .....</b>	<b>4</b>
<b>5 SERIOUS PERFORMANCE CONCERNS .....</b>	<b>5</b>
<b>6 ADDRESSING CONCERNS EARLY .....</b>	<b>5</b>
<b>7 FORMAL ACTION STAGE 1 .....</b>	<b>6</b>
7.1 Stage 1: Performance improvement meeting.....	6
7.2 Following the stage 1 meeting .....	7
7.3 Standard of performance MET at the end of the stage 1 review period .....	7
7.4 Standard of performance NOT MET at the end of the stage 1 review period .....	7
<b>8 FORMAL ACTION STAGE 2 .....</b>	<b>8</b>
8.1 Stage 2: Performance improvement meeting.....	8
8.2 Following the stage 2 meeting .....	9
8.3 Impact on salary increments .....	9
8.4 Standard of performance MET at the end of stage 2 review period .....	9
8.5 Standard of performance NOT MET at the end of the stage 2 review period .....	10
<b>9 FORMAL ACTION STAGE 3 .....</b>	<b>10</b>
9.1 Stage 3: Performance improvement hearing .....	10
9.2 Outcomes of a stage 3 hearing.....	11
<b>10 APPEALS .....</b>	<b>12</b>
<b>11 REARRANGING MEETINGS, HEARINGS OR APPEALS .....</b>	<b>12</b>
<b>12 EMPLOYEE SICKNESS ABSENCE DURING THE FORMAL STAGES OF THIS PROCESS .....</b>	<b>13</b>
<b>13 LINKS TO OTHER POLICIES AND PROCEDURES.....</b>	<b>13</b>
<b>APPENDIX 1: OVERVIEW OF STAGE 3 - PERFORMANCE IMPROVEMENT HEARING</b>	<b>14</b>
<b>APPENDIX 2 NOTIFICATION OF APPEAL AGAINST FIRST WARNING, FINAL WARNING OR DISMISSAL (SANCTIONS) UNDER THE IMPROVING PERFORMANCE POLICY ....</b>	<b>16</b>

## 1 Introduction

Chelmsford City Council is committed to supporting employees to perform their job to the standard required and in line with OurValues, so that the Council can deliver services effectively and efficiently.

This Improving Performance policy provides a structured process to support employees to carry out their job to the required standard. The policy sets out the steps:

- to support employees who do not meet the required standards of their job.
- that are expected if an employee's performance does not improve.

The aim of the policy is to support employees to reach the performance levels required. However repeated and prolonged underperformance cannot be supported indefinitely. This means that employees who are not able to consistently perform their duties to the expected standard may ultimately have their employment terminated.

This policy covers the capability of an employee to perform the functions of their post to a satisfactory level. Capability concerns an employee's skills, ability, aptitude, and the knowledge needed to perform their job effectively.

All employees managed through this process will be treated in a non-discriminatory and consistent way and in accordance with the Council's Diversity, Equality and Inclusion policy.

## 2 Scope

This policy applies to all permanent and fixed term employees of Chelmsford City Council who have completed Probation. It does not apply to casual workers.

## 3 Responsibilities

### **Manager**

- To positively support team development and use the OurConversations framework and timely feedback to identify and address performance issues promptly before they escalate.

- To provide employees with clear and reasonable instructions, setting timescales for work to be completed and the standard of work required.
- To openly and sensitively explore any personal, health or other factors that may be impacting upon the employee's performance.
- To contact their HR Business Partner where there are concerns about an employee's performance for advice and support. Ensuring that they are contacted as soon as *any* formal action is being considered against a trade union official, and for all other employees they must make contact with HR at the latest when considering formal action stage 2.

### **Employee**

- To carry out their job to the standard that is expected and in line with OurValues.
- To act upon all reasonable instructions provided by their manager, be productive and committed to delivering excellent service to the best of their abilities.
- To keep their manager informed of any personal, health or work-related issues that may affect their ability to successfully and safely undertake their role.
- To participate proactively, honestly and openly in any performance improvement process.

### **HR**

- To advise and support managers and employees on all aspects of this policy
- To collate and retain copies of relevant documents and to issue any formal correspondence on behalf of the City Council
- Where formal action is being considered against a trade union official ensure this is not started before informing the trade union branch or region

## **4 Factors affecting performance**

A lack of capability exists, and this policy should be applied where, the employee is not intentionally under performing, but no matter how hard an employee tries, they are unable to perform the job to the standard required.

The reasons for a lack of capability (underperformance) should be explored with the employee to understand what may be causing the issue so that it can be addressed. Particular attention must be paid to any disability the employee may have. A disability

may have recently developed or intensified. It is possible that work practices have changed making it difficult for the employee to perform to the required standard. Where this is the case, this should be explored with the employee, with support from HR if required to understand whether reasonable adjustments need to be reviewed or introduced.

## **5 Serious performance concerns**

There may be exceptional circumstances where the Manager believes a lack of capability exists which has had or could have a serious impact on the Council (e.g. serious financial mismanagement as a result of the employee's action/inaction). Where this is the case, the manager, in consultation with HR may move to stage 2 or stage 3 of this policy.

## **6 Addressing concerns early**

Managers should monitor performance, identifying and resolving issues as soon as possible. Managers are expected to have regular conversations about the employee's performance, development and wellbeing as part of the Council's OurConversations framework.

Managers are expected to let employees know when they are underperforming, discussing underperformance with employees around the time it happens. They should work with employees to understand why the underperformance is happening and offer support to give the employee the opportunity to improve. Any support will take into account the nature of the job, the improvements required and will be agreed through discussion.

Where timely feedback, the OurConversations framework and any other support has not led to improvements in performance, managers should move to the formal stages of this Improving Performance Policy. This will provide greater structure and clarity to support the employee to improve their performance within defined timescales.

HR Business Partners can provide advice and support as appropriate throughout any performance improvement process.

## 7 Formal action stage 1

### 7.1 Stage 1: Performance improvement meeting

The manager will write to the employee giving at least 7 calendar days' notice of the stage 1 meeting. This should set out the detail of where the required performance has not been reached and any support given to date. The employee can arrange to be accompanied by a trade union representative or a colleague. A representative from HR may attend the meeting at the request of either the manager or the employee.

During the meeting, the manager is expected to:

- share what needs to improve with the employee.
- provide examples to support their concerns.
- try to find out the reasons for the employee's underperformance.
- check if there is any further support available that could give the employee the opportunity to improve their performance, including reasonable adjustments from Access to Work
- discuss how the improvements can be made with the employee.
- set timescales for the improvements to happen.
- be clear about the consequences of continued underperformance.
- keep a record of what has been discussed.

During the meeting the employee is expected to:

- share any possible reasons for their underperformance with their manager.
- discuss practical solutions with their manager.
- check their understanding on what improvements are expected and by when.

The discussion will provide the information to develop and agree an improvement plan. The improvement plan will be clear on the required standard of performance and how to reach it. It will include review points to check progress.

## **7.2 Following the stage 1 meeting**

Following the stage 1 meeting, the manager will write to the employee detailing the performance concerns, enclosing the improvement plan and setting out the possible consequences of continuing under performance.

The improvement plan will include clear, measurable and realistic objectives. The timescales for improvement will be set and review points included. The plan should be no longer than 8 weeks, taking into account the nature of the performance issues and the role.

At the review points, the manager will let the employee know if their progress is meeting expectations or discuss what improvements are needed to reach the required standard.

If sufficient progress is not being made as the plan progresses, the manager does not have to wait until the end of the improvement plan to take further action. They may in consultation with the HR Business Partner decide to move to a later stage of this policy.

## **7.3 Standard of performance MET at the end of the stage 1 review period**

If the required standard of performance has been reached at the end of the review period, the manager will write to the employee to confirm the required improvements have been made and that they expect the employee to maintain this standard of performance.

The improvement plan will be kept active on the employee's file for 6 months from date of the stage 1 meeting. It will be revisited during this time if the required standard of performance is not maintained. This is to ensure performance is maintained and is not a sanction.

## **7.4 Standard of performance NOT MET at the end of the stage 1 review period**

If the required standard of performance has not been reached at the end of the review period, the Manager may move to stage 2.

The Manager must contact the HR Business Partner for advice and support at this point.

## 8 Formal action stage 2

### 8.1 Stage 2: Performance improvement meeting

The manager will write to the employee giving at least 7 calendar days' notice of the stage 2 meeting. This should set out the detail of where the required performance has not been reached and the support given during the improvement plan. The employee can arrange to be accompanied by a trade union representative or a colleague. A representative from HR will also attend the meeting.

During the meeting, the manager is expected to:

- share what needs to improve with the employee.
- provide examples to support their concerns.
- try to find out the reasons for the employee's underperformance.
- check if there is any further support available that could give the employee the opportunity to improve their performance, including reasonable adjustments from Access to Work
- discuss how the improvements can be made with the employee.
- set timescales for the improvements to happen.
- be clear about the consequences of continued underperformance.
- keep a record of what has been discussed.

During the meeting, the employee is expected to:

- share any possible reasons for their underperformance with their manager.
- discuss practical solutions with their manager.
- check their understanding on what improvements are expected and by when.
- be aware of the likely consequences of continued underperformance.

The discussion will provide the information to agree the updated improvement plan. The updated improvement plan will be clear on the required standard of performance is and how to reach it. It will include review points to check progress.



## **8.2 Following the stage 2 meeting**

Following the formal action stage 2 meeting, the manager will write to the employee detailing the performance concerns, enclosing the updated improvement plan and setting out the possible consequences of continuing under performance.

The updated improvement plan will include clear, measurable and realistic objectives. The timescales for improvement will be set and review points included. The plan should be no longer than 8 weeks taking into account the nature of the performance issues and the role.

The manager may also decide to issue a First warning which will remain on the employee's file for 6 months and will be disregarded for improving performance purposes after that, providing the required standards of performance are reached and maintained.

At the review points, the manager will let the employee know if their progress is meeting expectations or discuss what improvements are needed to reach the required standard.

If sufficient progress is not being made as the plan progresses, the manager does not have to wait until the end of the improvement plan to take further action. They may, in consultation with the HR Business Partner, decide to move to a later stage of this policy.

## **8.3 Impact on salary increments**

If an employee's performance is being monitored at stage 2 of the formal process, they will not be eligible to receive salary increments until their performance has reached the required level.

## **8.4 Standard of performance MET at the end of stage 2 review period**

If the required standard of performance has been reached at the end of the stage 2 review period, the manager will write to the employee to confirm the required improvements have been made and that they expect the employee to maintain this standard of performance.

If the employee was not issued a first warning at the stage 2 meeting, the improvement plan will be kept active on the employee's file for 6 months from date of the stage 2

meeting. It will be revisited during this time if the required standard of performance is not maintained. This is to ensure performance is maintained and is not a sanction.

If the employee was issued a first warning at the stage 2 meeting, this will remain on the employee's file for 6 months along with the improvement plan and will be revisited during this time if the required standard of performance is not maintained. The warning will be disregarded for improving performance purposes after that,

Any annual salary increment that has been withheld will take effect from the date of the stage 2 meeting and will not be backdated.

### **8.5 Standard of performance NOT MET at the end of the stage 2 review period**

If the employee has not made sufficient improvements at the end of stage 2 review period, the manager should prepare a case report in consultation with HR for the Director of Service.

This should detail:

- the areas where the employee has failed to meet the required performance standards.
- the action taken to date to support the employee in reaching the required performance level.
- the affect that the employee's performance is having on the work area.
- any reasons for the underperformance shared to date by the employee.
- copies of Improvement plan/s.

## **9 Formal action stage 3**

### **9.1 Stage 3: Performance improvement hearing**

The Director of Service will consider the case report and HR will write to the employee giving at least 7 working days' notice of the stage 3 - performance improvement hearing. The letter will enclose the case report and will be clear that a consequence of the hearing may be dismissal.

At the Formal action stage 3 - performance improvement hearing, the employee's case will be considered by the Conducting Officer who will be the employee's Director of Service, or another officer delegated to act on their behalf. The employee can arrange to be accompanied by a trade union representative or a colleague. A representative from HR will also attend the hearing.

The employee can supply documented evidence or call witnesses at the hearing provided that they supply copies of any documents and/ or the names of any witnesses at least 3 working days prior to the Performance Improvement Hearing.

An overview of the stage 3 - performance improvement hearing is shown at Appendix 1.

The Conducting Officer will make a decision on the outcome of the stage 3 -performance improvement hearing based upon:

- the action taken to improve the employee's performance and the results of this
- the impact or consequences of the performance
- any mitigating circumstances

## **9.2 Outcomes of a stage 3 hearing**

The possible outcome of a stage 3 – performance improvement hearing include:

- **Final warning** – a final written warning will remain on the employee's file for 12 months but will be disregarded for improving performance purposes after that, providing the required standards of performance are reached and maintained. A further extension period for the improvement plan will also be set which will not usually exceed eight weeks in duration. If the required standard of performance is not reached the Performance Improvement Hearing will be reconvened.
- **Dismissal** – with contractual notice

The Conducting Officer, may decide, depending on individual circumstances, that as part of a dismissal outcome, the Council should seek capability redeployment in line with the Council's redeployment policy. This will run alongside the employee's contractual notice period and if suitable alternative employment is not found during this time, the employee will leave the Council's employment.

The employee will receive written confirmation of the outcome of the stage 3 – performance improvement hearing.

## **10 Appeals**

Where an employee has been dismissed or issued with a first or final warning, they have the right to appeal. Any appeal must be lodged within 7 calendar days of the date of the letter confirming the outcome of any formal meeting under this policy, using the Notification of Appeal form at Appendix 2.

For first warnings, the appeal will normally be considered by the next senior officer. For final warnings and dismissals the appeal will normally be considered by a member of Management team.

The employee can arrange to be accompanied by a trade union representative or a colleague. A member of the HR team will also attend the appeal.

The employees will be given 7 calendar days' notice of the appeal hearing in writing. The employee will be notified of the outcome of the appeal hearing in writing.

## **11 Rearranging Meetings, Hearings or Appeals**

If either the employee or their trade union representative or work colleague are not able to attend a meeting, hearing or appeal, efforts will be made to agree an alternative date provided it is reasonable and within seven calendar days of the original date.

Any other requests for rearranging a meeting, hearing or appeal will be considered depending on individual circumstances, with a maximum of one rearranged meeting at each stage of the process.

Should an employee who has been given notice of a meeting or hearing in accordance with this policy not attend without good reason, the meeting or hearing may proceed in their absence. In the case of an appeal, in this circumstance the Council will treat the appeal as having been withdrawn.

## **12 Employee sickness absence during the formal stages of this process**

If sickness absence occurs during the formal stages of this policy, the manager and/or the employee should contact the HR Business Partner. Short absences would not normally delay any part of the procedure.

Employees who are away from work due to sickness absence when a meeting or hearing is due to take place must contact HR to discuss their attendance, as it may be that arrangements can be made to allow the employee to attend.

If an employee is absent due to sickness at the Stage 3 Formal Performance Improvement Hearing. The Hearing officer will consider whether the hearing should go ahead in their absence. If it is determined that the hearing will go ahead, the employee will be notified, and the outcome provided to them in writing.

## **13 Links to other policies and procedures**

1. Code of Conduct

## Appendix 1: Overview of Stage 3 - Performance Improvement Hearing

The Conducting Officer will introduce everyone present and explain the purpose of the hearing. They will also:

- check that the employee has received copies of this policy, the case report and any other documentation which will be presented by the manager.
- check that the Council have been provided with any documentation which the employee wishes to refer to.
- check that employee has been made aware of their right to bring a trade union representative or colleague.
- confirm whether any witnesses are to be called.

The Manager will then present the case report and call any witnesses.

Questions can be asked of the manager and their witnesses by the Employee, their Representative, the Conducting Officer and the HR representative.

The Employee or their Representative will then have the opportunity to present their case to the Conducting Officer and will call any noted witnesses.

Questions can be asked of the Employee and their witnesses by the Manager, the Conducting Officer and the HR representative.

The Conducting Officer will then call an adjournment at which point, the Manager, the Employee and their representative will be asked to leave.

During the adjournment the Conducting Officer and HR representative will review the evidence presented and the Conducting Officer will come to a decision on the outcome of the Performance Improvement Hearing.

In coming to a decision, the following information will be considered:

- The action taken to improve the employee's performance and the results of this.
- The impact or consequences of the performance matter
- Any mitigating circumstances

The possible outcomes of a Performance Improvement hearing include:

**Final Warning** – a final written warning will remain on the employee's file for 12 months but will be disregarded for improving performance purposes after that, providing the required standards of performance are reached and maintained. A further extension period for the improvement plan will also be set which will not usually exceed eight weeks in duration. If the required standard of performance is not reached the Performance Improvement Hearing will be reconvened.

**Dismissal** – with contractual notice

The Conducting Officer, may decide, depending on individual circumstances that as part of a dismissal outcome, the Council should seek capability redeployment in line with the Council's redeployment policy. This will run alongside the employees' contractual notice period and if suitable alternative employment is not found during this time, the employee will leave the Council's employment.

Once the Conducting Officer has reached a decision the Employee, their Representative and the Manager will be recalled to the hearing and will be informed of the decision. Where this is not practicable the decision will be communicated to the Employee in writing.

The Employee will receive written confirmation of the outcome of the stage 3 – performance improvement hearing.

Any appeal must be lodged within 7 calendar days of the date of the letter confirming the outcome of any formal meeting under this policy, using the Notification of Appeal form.

## Appendix 2 Notification of Appeal Against First Warning, Final Warning or Dismissal (Sanctions) Under the Improving Performance Policy

### Important Note:

You should only use this form if you wish to appeal against a sanction issued against you under the Improving Performance Policy.

The completed form should either be hand delivered or sent by post to the HR Services Manager, Chelmsford City Council, Civic Centre, Duke Street, Chelmsford, Essex, CM1 1JE.

The form **MUST** reach HR **within 7 calendar days of the date of the letter confirming the sanction**.

On receipt of the completed form HR will arrange an appeal hearing as appropriate and will notify you in writing of the date and time thereof, together with other details.

I, [insert full name] .....

wish to appeal against the sanction issued on by:

.....[insert name of manager or conducting officer]

on .....20.. [insert date of meeting or hearing].

### Reason(s) for appeal

Please indicate which of the following grounds your appeal is based upon:

- ☐ The procedure – failure to follow procedure had a material effect on the decision
- ☐ The decision – the facts/evidence did not support the conclusion reached
- ☐ The sanction – too severe in all the circumstances

My reason(s) for appealing are as follows:

*[Please provide details of whether you intend to contest any of the facts, and of the grounds on which you rely.]*

.....Continue over as necessary



I intend/do not intend\* to be represented at the Appeal hearing.

\* delete as applicable.

Name and address of representative [if applicable]:

.....

.....

.....

Should further documentation/correspondence relating to this appeal be sent direct to your representative, or to you?    **Representative/Me** \*

\* delete as applicable.

I understand that if a hearing is convened to hear my appeal and, without good reason, I fail to attend that hearing, then my appeal may be treated as having been withdrawn.

Signed:.....

Dated:.....