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## Performance Management Policy

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***Please be aware that this printed version of the Policy may NOT be the latest version. Staff are reminded that they should always refer to the Intranet for the latest version.***

<b>Purpose of Agreement</b>	To provide a standard framework to address issues of staff performance in a fair and consistent manner, so staff are aware of the level of performance expected from them. This policy identifies what the consequences of failing to meet the required standards are. This document excludes medical staff (doctors and dentists).
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## Review Log

1	November 2014	Sarah Martin		Revision of wording under section 4.4 taking to account case law; Toal & Hughes v GB Oils Ltd (May 2013 EAT) and proposed adjustment to ACAS code.
2	April 2016	Sarah Martin		Policy re-write.
3	July 2019	Hannah West		Policy review and update. Additions made in respect of NHSI guidance. Inclusion of impact of warnings on pay progression.

## Summary of policy

Employees must meet the requirements of their role and this policy aims to enable managers to get the best from their staff through regular supervision. It provides a standard framework for overcoming difficulties of staff performance in a fair and consistent manner, with the focus on encouraging improvement through clear objective setting and development support to ensure staff are aware of what is expected of them whilst ensuring a compassionate and person centred approach is applied.

This document applies to all directly and indirectly employed staff within Solent NHS Trust, excluding medical staff (doctors and dentists) and identifies what the consequences of failing to meet required standards area.

In paragraph 3 the definitions explain the meaning of capability, and poor performance, whilst section 4 explains which issues are excluded from this policy.

The expectations and responsibilities of all parties involved in managing performance are included in section 5.

Section 6 explains the process to be followed and this is also explained in a flow chart at appendix 2. The informal stage commences at Section 8 and the formal stages are covered in section 9. Alternatives to dismissal and appeals are covered in Sections 10 and 11.

Section 7 outlines the process to be followed when someone is appointed with conditions (such as the condition that they obtain a specific qualification) and fails to meet the conditions. The policy explains what to do in cases where a union representative is involved or there are language barriers at section 12. Section 13 explains what will happen if a grievance occurs during performance action.

Appendix 3 provides a draft performance improvement plan and Appendix 4 includes a feedback form. All letters required by managers in order to manage performance are included in appendices 5-7.

## PERFORMANCE MANAGEMENT POLICY

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## PERFORMANCE MANAGEMENT POLICY

### 1. INTRODUCTION & PURPOSE

- 1.1 Solent NHS Trust aims to provide consistently high quality healthcare for the community within which it serves. Therefore the performance of every employee is crucial to the success of the organisation. Managing performance is most effective when the employees that are recruited are of the right calibre to deliver in the first place. Therefore due consideration should be given to the recruitment process to ensure that Solent NHS Trust managers recruit the right person in the right place at the right time.
- 1.2 Each employee is encouraged to maximise their potential within a role and to continuously strive to deliver their best. Managing performance should be a continual process of feedback and review. However, there will be occasions when an employee's ability and performance fall below the required standard for their role and they are unable to meet their contractual obligations. In these instances management intervention is required to provide an enhanced level of support, development and feedback.
- 1.3 This policy aims to provide a framework for overcoming such difficulties with the focus on encouraging improvement through clear objective setting, development, support applying a person centred approach and monitoring from employees starting in post and at all stages of their employment. Employees must meet the requirements of their role and this may mean changing an approach, methodology or process. Likewise managers must also ensure that their responsibilities to guide and support staff are fulfilled acting as a caring and responsible employer and upholding our values.

### 2. SCOPE

- 2.1 This policy applies to permanent and fixed term contract employees (including apprentices) who hold a contract of employment with the Trust, working within Solent NHS Trust, in line with Solent NHS Trust's Equality, Diversity and Human Rights Policy.

### 3. DEFINITIONS

- 3.1 Section 98 (3)(a) of the Employment Rights Act 1996 states that "capability, in relation to a member of staff, means their capability is assessed by reference to skill, aptitude, health or any other physical or mental quality." Section 98 (2)(a) of the Act also indicates that "incapability must relate to the work or the kind of work that the member of staff was employed by the employer to do."
- 3.2 The capability of any individual staff member must be determined in accordance with their current contractual obligations. This includes the duties / responsibilities as set out in their job description and required qualifications and / or registration to undertake the role.
- 3.3 Poor performance can be defined as individuals not working to the level required in their role and in line with their objectives, and the service and organisational objectives.
- 3.4 Concerns about performance may relate to a number of issues. The list below is not exhaustive:
- Low standard of work, for example frequent mistakes, not following a task through, inability to cope with instructions given
  - Inability to handle a reasonable volume of work to a required standard
  - Unacceptable attitudes to Service Users/Carers

- Unacceptable attitudes to work colleagues, for example uncooperative behaviour, poor communication, inability to acknowledge the contribution of others, poor teamwork, lack of commitment and drive
- Lack of skills in tasks/methods for work required
- Lack of awareness of required standards
- Consistently failing to achieve set objectives
- Acting outside limits of competence
- Poor supervision of the work of others where this is a requirement of the job

3.5 A genuine lack of capability may occur for a variety of reasons including the following which is not exhaustive:

- Personal circumstances
- Loss of driving licence
- Qualifications
- Lapse or loss of registration
- Changes in the workplace
- Environment
- Career change
- Bullying and harassment
- A genuine inability to achieve the standards required by the job

3.6 In order to determine whether there is a capability issue and that the matter should be dealt with under this procedure, the following questions should be considered:

- What are the indications that the employee is not performing to the requirements of the job?
- Have there been complaints about, or criticisms of, the employee's work from colleagues, service users or visitors?
- Are there factual grounds to indicate inadequate performance, such as poor results?
- Does the manager's own observation of the employee indicate dissatisfaction with the employee's performance?
- Has the employee requested help to overcome a problem?

The way forward in the initial stages of the procedure will be determined by the answers to these questions.

#### **4. EXCLUDED ISSUES**

4.1 The following issues are excluded from this policy. For issues involving staff:

- Conduct, or where poor performance is believed to be attributable to deliberate, negligent or careless failure to perform to the standards required, rather than inability to do the job, managers should refer to the Disciplinary Policy.
- Sickness absence/capability due to ill health, managers should refer to the Managing Attendance and Wellbeing Policy.
- Court convictions not connected to work, managers should refer to the Recruitment and Selection policy and the DBS Check Policy.
- Those covered by a training agreement (e.g. Student Health Visitors, District Nursing Student Training).

## **5. ROLES & RESPONSIBILITIES**

### **5.1 Employees**

The Employee is responsible for:

- Maintaining a good level of performance at work
- Aiming to maintain the highest standards of care and service
- Taking up training and development opportunities provided over and above those legally required of the post
- Ensuring they treat colleagues and patients fairly and equitably
- Ensuring they comply with all Trust policies and procedures
- Fully participating in the process of managing performance in order to address any performance issues identified including attending meetings as requested under this policy
- Arranging the attendance of their staff representative or companion at meetings
- Maintaining confidentiality during and after the application of this policy

### **5.2 Managers**

The Manager is responsible for:

- Ensuring staff are treated fairly and equitably
- Providing regular supervision meetings and conducting an annual appraisal
- Early intervention when poor performance is identified is essential, enabling a supportive approach to be taken.
- Ensuring that Trust policies and procedures are complied with
- Informing the Human Resources department when incidents arise and working with them to progress each case
- Arranging meetings in line with this policy
- Providing a fair and reasonable outcome for staff in line with this policy
- Ensuring all timescales in the policy are adhered to
- Maintaining confidentiality during and after the application of this policy
- Continually assessing the health and welfare of the staff member, with support from the Occupational Health team. Ensuring that referrals are made to Occupational Health for any employee who either requests or is identified as requiring support.

### **5.3 Human Resources**

The Human Resources department is responsible for:

- Providing appropriate advice and support to managers in the application of this procedure including relevant training and coaching
- Supporting all formal meetings in line with this policy
- Ensuring the policy is followed in a fair and equitable manner
- Ensuring the policy is adhered to and timescales are met
- Ensuring any trends are identified and brought to the attention of a senior manager
- Ensuring, through dialogue with the manager, that the health and welfare of the staff member is fully considered and appropriately supported, through Occupational Health and/or the Employee Assistance Programme.

### **5.4 Staff Side Representatives or Companion**

5.4.1 Employees are entitled to be accompanied by a staff-side representative or workplace friend or

colleague, at any formal meetings held under this Policy. It is the employee's responsibility to make arrangements to be accompanied. The employee must be informed of this right at the commencement and all subsequent stages of this procedure.

- 5.4.2 The employee's choice of companion must be reasonable, depending on the circumstances of each individual case; however, it would not normally be reasonable for someone to attend whose presence would prejudice the meeting.
- 5.4.3 Staff Side Representatives may be from another Trust or a lay official or full time officer as long as they are certified by their union as being competent to accompany an employee. Any other companion (a workplace friend or colleague) should always be a member of the Trust. Reasonable time off should be afforded to the workplace friend or colleague, in discussion with their Line Manager.
- 5.4.4 The companion may address the meeting and confer with the employee, during the meeting, put forward the employee's case, summarise the employee's case and/or respond on the employee's behalf to any view expressed at the hearing.
- 5.4.5 The representative or workplace colleague or companion may not answer questions on behalf of the employee or prevent the employer from explaining their case.
- 5.4.6 Any companion must maintain confidentiality during and after the application of this policy.
- 5.4.7 If the reason given for failing to attend a meeting is due to the non-availability of a trade union representative or workplace friend/colleague and there have been no earlier adjournments in the process for this reason, on only one occasion the meeting will be postponed and a new meeting will be arranged within reasonable time; normally 5 working days. Exceptional circumstances will always be considered.

## **6. THE PROCESS (Appendix 2)**

NB: In all decision-making that may result in the application of a formal sanction, the principle of plurality should be adopted. The decision to issue a formal sanction should be well informed, reviewed from multiple perspectives and never taken by one person alone. Prior to any formal meeting which may result in the termination of an employee's employment, the case will be referred to the People Management Advisory Forum (PMAF) to ensure appropriate senior-level oversight.

- 6.1 The employee will be invited to all formal meetings, including the appeal, by letter which should be hand delivered to the employee, or sent recorded delivery should it not be possible to give it to them in person. This should be given to the employee no less than 5 working days prior to the meeting. A template letter is provided in Appendix 5 for managers to use. For informal meetings, managers may wish to organise this in person or send an email to invite the employee to the meeting or could be done through one to one supervision arrangements.
- 6.2 For formal meetings, the employee will be provided with any relevant evidence or supporting documentation prior to the meeting taking place. Normally it will be sent at the same time as the meeting notification letter.
- 6.3 Meetings may be rescheduled should the reason for not attending be reasonable. However, further failures to attend may result in the meeting being conducted in the employee's absence

and a decision made on the information available.

6.4 If the individual is unfit to attend a meeting due to a medical condition, medical advice will be sought from the Occupational Health department to determine when they will be fit to attend. If they are unlikely to be fit to attend the meeting, it will be rescheduled on their return to work. For appeal hearings, the individual may be asked to provide a written statement or alternatively they may wish to ask their representative to speak on their behalf.

6.5 The manager should also arrange a note taker for formal meetings. Please note that employees are not permitted to record any meetings held under this policy. Any recordings made in breach of this policy may result in disciplinary action. Employees, or their companions, may take notes at the meeting. A copy of the formal meeting notes will be sent to the employee.

Summary notes of the meeting will be made, which the employee is entitled to receive a copy of. These notes are not intended to be verbatim notes of the meeting. They are a summary record of discussions.

6.6 The meeting should be used to:

- Clarify the role using the job description and person specification and identify specific gaps in performance which are of concern and must include factual evidence and/or examples to support this
- Establish the employee's perspective in relation to the concerns
- Review and identify any support and training needs to meet the required level of performance
- Review the Performance Development Plan
- Review any external factors which may need to be taken into account
- Set a realistic time scale for monitoring and review, usually no more than two months
- Set clear, reasonable and measurable objectives which clearly specify the improvements required
- Identify an appropriate, regular feedback mechanism and intervals for this to take place
- Inform staff of the warning issued, where applicable
- Inform staff of the next stage of the procedure should the employee not improve their current level of performance

6.7 Central to this policy is the requirement for managers to give employees clear and constructive feedback in relation to their work performance and progress towards the achievement of the objectives, which have been agreed. Indeed feedback mechanisms are the main source of support and development that managers can offer an employee. An example feedback form has been attached as Appendix 4. In certain cases the manager may wish to identify another senior individual to provide immediate advice, direction and on-going feedback to the employee. Mentoring may also be appropriate. Managers should also ensure that the health and welfare of the employee is paramount and continually assessed throughout this process.

6.8 After each meeting, the manager should produce an updated Performance Improvement Plan (an example has been attached as Appendix 3) detailing the objectives to be met during the review period. This should be given to the employee along with a letter confirming the outcome of the meeting. Template letters are provided in the appendices 5, 6 and 7 for managers to use.

- 6.9 The employee should be advised that failure to improve performance may result in progression to the next stage of the procedure and may result in a warning, or a further warning, or their dismissal.
- 6.10 The employee has the right to appeal following decisions made at each formal stage of this policy
- 6.11 Managers should exercise appropriate judgement with regards to any subsequent performance issues arising following each stage. Should an employee's performance decline again, and a warning is still live, the policy should be resumed.
- 6.12 There may be occasions when it will be appropriate to initiate this process without informal discussions having taken place. This is likely to be due to concern about an individual's performance arising out of a particular incident or event. It may also be appropriate, where there are serious concerns about an individual's performance for the manager to proceed immediately to Stage Two. In exceptional circumstances, it may be necessary to invoke the Final Stage of the performance process however in both Stage Two and the Final Stage it is imperative that HR Consultancy are contacted for further advice and support.

## **7. APPOINTED WITH CONDITIONS.**

- 7.1 Managers should note; there may be occasions where staff are appointed on condition that they obtain a particular qualification, pass an examination or pass an assessment in order to continue in their position. In these situations staff may be dismissed if they fail to do so, as long as this has been made clear to the employee on appointment to the post and forms part of their contract of employment. A manager should consider how many attempts the employee has taken to obtain a particular qualification, pass an examination or pass an assessment. It is identified that more than 2 attempts may result in dismissal in line with this policy.
- 7.2 In the majority of cases, an individual should be given informal feedback when concerns do emerge in order that they may bring about a positive improvement in their performance / achievement of passing qualification/examination, thereby negating the need to initiate this process.
- 7.3 There may however, be occasions when it will be appropriate to initiate this process without informal discussions having taken place. This is likely to be due to concern about an individual's performance arising out of a particular incident or event. It may also be appropriate, where there are serious concerns about an individual's performance for the manager to proceed immediately to Stage Two. In exceptional circumstances, it may be necessary to invoke the Final Stage of the capability process however in both Stage Two and the Final Stage it is imperative that HR Consultancy are contacted for further advice and support. Likewise, if during the 2-month review period the employee's performance deteriorates, the formal review meeting will be brought forward and the next stage will be implemented. No employee will be dismissed for a first breach of required performance standards except in exceptional circumstances.
- 7.4 It may be appropriate in certain circumstances to extend the review period at any of the stages of the process in order to allow additional time for training or individual circumstances to be allowed for. This could be due to a slight improvement being made but not significant enough to end the particular stage of the process.
- 7.5 If performance is being reviewed under the Performance Management Policy and Procedure, no progression through Pay Gateways should occur until performance reaches a level which meets that described in the KSF outline for the post.

## **8. THE INFORMAL STAGE**

- 8.1 It is recognised that it is not always necessary to invoke formal performance management processes in response to performance concerns. Some aspects of performance should, wherever possible, be addressed informally with the employee.
- 8.2 Following the meeting at this stage, the employee will be provided with a review period to address the identified areas of their performance. This should normally be between 1- 2 months.
- 8.3 At the end of the informal review period, if the required performance has been met confirmation should be sent to the employee. A template letter is provided in Appendix 6 for managers to use. No further action will be taken, although the employee's performance will continue to be monitored in the usual way.
- 8.4 The record of the meeting under the informal procedure should normally be retained on an employee's file for up to 6-months after his or her performance has been confirmed as having met the required standard.
- 8.5 If the required performance has not been met the manager may either:
- Extend the informal part of this procedure for a further period, if significant progress has been made or should the employee have been absent from work due to individual circumstances for a significant period of the review (e.g. sickness / extended period of leave). This should not normally exceed four weeks.
  - Move to the formal stage of the procedure

## **9. THE FORMAL STAGES**

### **9.1 First Formal Stage Meeting**

- 9.1.1 The first stage of the procedure is intended to register formal concern on the part of the manager and to provide a clear framework for resolving the areas of performance under review.
- 9.1.2 At this stage, and following discussions, the employee will be advised that they will receive a written warning which will remain on the employee's file for 12 months. The employee will also be advised of the right of appeal.
- 9.1.3 During the period the written warning remains live the employee may be exempt from any pay progression increases. On expiry of the warning, pay progression increases that would have been applied will be actioned but not backdated. For further information please see the Agenda for Change Starting Pay and Progression Policy.
- 9.1.4 The outcome of this meeting will be formally recorded in a letter to the staff member within one calendar week of the meeting (an example has been attached as Appendix 6).
- 9.1.5 Following the meeting, the employee will be provided with a review period to address the identified areas of their performance. The manager should then review the original action plan and amend it as necessary. A new time scale for the achievement of the required standards should be set which allows sufficient time to meet the standard, but it should not be unduly prolonged. This would usually be between 1 – 2 months, depending upon the circumstances.
- 9.1.6 The staff member must keep their line manager informed of progress throughout the review period, including highlighting any problems experienced or any concerns.

- 9.1.7 At the end of the review period, the manager is satisfied that, either:
- The employee's performance meets the required standard and the employee is notified of this.
  - The employee has not made significant progress or the employee has been absent from work due to sickness for a significant period of the review. Therefore this part of the procedure is extended for a further period (this should not normally exceed one month).
  - The employee's performance has not met the required standard following the first formal review and therefore the next stage of the procedure is implemented.

## **9.2 Second Formal Stage Meeting**

- 9.2.1 If the employee's performance fails to improve following the first formal stage review period, they will be required to attend a second formal stage meeting.
- 9.2.2 At this stage, and following discussions, the employee will be advised that they will receive a final written warning which will remain on the employee's file for 24 months. The employee will also be advised of the right of appeal.
- 9.2.3 During the period the final written warning remains live the employee may be exempt from any pay progression increases. On expiry of the warning, pay progression increases that would have been applied will be actioned but not backdated. For further information please see the Agenda for Change Starting Pay and Progression Policy.
- 9.2.4 The outcome of this meeting will be formally recorded in a letter to the staff member within 2 calendar weeks of the meeting (an example has been attached as Appendix 6).
- 9.2.5 Following the meeting, the employee will be provided with a review period to address the identified areas of their performance. This would usually be between 1 – 2 months, depending upon the circumstances.
- 9.2.6 At the end of the review period, the manager is satisfied that, either:
- The employee's performance meets the required standard and the employee is notified of this.
  - The employee has not made significant progress or the employee has been absent from work due to sickness for a significant period of the review. Therefore this part of the procedure is extended for a further period (this should not normally exceed one month).
  - The employee's performance has not met the required standard following the second formal review and therefore the next stage of the procedure is implemented.

## **9.3 Final Formal Stage Meeting**

- 9.3.1 If the employee's performance fails to improve following the second formal stage review period, they will be invited to a final formal stage meeting, subject to adhering to the principals as outlined at point 6 above.
- 9.3.2 This meeting will be conducted by a senior manager who has the authority to dismiss or has been delegated the authority to dismiss and an additional second hearing manager, to ensure a panel approach. At this stage, and following discussions, the employee will be advised that a decision may result in their dismissal. Any decision to dismiss will not be taken by one person alone or by anyone who has an identified or perceived conflict of interest.
- 9.3.3 The member of staff will be given at least 1 calendar weeks' notice of the meeting. The written confirmation of the meeting must include:

- The stage reached in the performance procedure
- Clear details of the continued shortfall in performance
- All necessary supporting documentation and management brief
- Details of the formal procedure to this point
- That the outcome of the meeting may result in their dismissal on poor performance / capability grounds
- The right of representation.

9.3.4 If the senior manager believes the required performance improvement to be unattainable by the staff member in their current post, further consideration will be given as to whether any further extension period would allow for the required improvement to be made or not, or whether permanent redeployment (at the same or lower grade) is possible. Where redeployment is not considered an option, or where redeployment has been refused by the staff member, the senior manager will consider dismissing the staff member from their employment on the grounds of poor performance / capability.

9.3.5 The employee will be sent a letter confirming the outcome of the meeting within two calendar weeks. A template letter is provided in Appendix 6 for managers use.

## 10. ALTERNATIVES TO DISMISSAL

10.1 Exceptional circumstances may exist in which other action short of dismissal may be more appropriate to the circumstances of the individual case. Should these be applied, the employee will be transferred on to the pay arrangements and band for that post, with effect from the date of change. Alternatives to dismissal may include

- Extension of the Second Formal Stage
- Downgrade with no protection of pay in the same service area (where the individual refuses this, dismissal may be the only option available)
- Redeployment at the current grade to a different service area /working environment

10.2 Consideration should also be given to the value of devising a Performance Improvement Plan (PIP) or induction and set objectives for the employee to settle into their new role. In this instance, a PIP review would need to be completed.

10.3 These outcomes would normally be for a specified period of time and would remain on the employee's file for the appropriate timeframe.

10.4 A decision to take Action short of Dismissal should be clearly explained to the employee.

## 11. THE APPEAL

11.1 Appeals may be made in writing against any formal decision under this policy and within the time limits stipulated below:

Sanction	Appeal to be made to	Timescale for Manager's written response	Employee timescale to submit appeal after Manager's response	Timescale to hear appeal
Written Warning	Line Manager	1 week	1 week	3 weeks

Final Written Warning	Service Manager or next in line manager if higher	2 weeks	2 weeks	3 weeks
Dismissal	Head of Service or Associate Director/Director if higher	2 weeks	2 weeks	3 weeks

11.2 The employee must stipulate their full grounds of appeal in writing, which should be one or more of the following:

- New evidence that was not previously obtainable
- Failure to follow the procedure
- The level of sanction received

It is not sufficient merely to disagree with the decision made.

11.3 The appeal hearing will not involve further investigation into the performance of the individual, unless the provision of new evidence not previously obtainable is submitted.

11.4 At this stage a manager at the same level or more senior to the hearing manager will conduct the appeal hearing, accompanied by a second hearing manager to ensure a panel approach. Appeals against dismissal will normally be heard by an Operations Director, Associate Director or Director.

11.5 At the appeal hearing, the employee will state their grounds of appeal. The appeal hearing manager will then question the employee further.

11.6 The employee will have the opportunity to provide any further information before the hearing is adjourned and a decision reached.

11.7 The employee will be notified in writing of the decision within two calendar weeks. A template letter is provided in Appendix 7 for managers to use. The decision will be one of the following:

- Confirm the original decision
- Substitute the sanction for a lesser one
- Overturn the original decision

11.8 There is no further right to appeal at the stage of the policy after this stage.

## 12. SPECIAL CASES

### 12.1 *Proceedings against a Staff Side Representative*

12.1.1 In all cases where the Manager is considering taking action under this policy against a trade union official the case will be discussed with a branch or full time officer after obtaining the employees agreement.

### 12.2 *Language Barriers*

12.2.1 If there are likely to be understanding or language difficulties during the meeting, it may be necessary for an interpreter or friend to be made available. The employee should contact their line / other appropriate manager or senior officer of the Trust, an HR Representative or a staff

representative for advice and guidance.

### **13. RAISING A GRIEVANCE DURING THIS POLICY**

- 13.1 In exceptional circumstances, where an employee raises a grievance at any stage of this policy, a decision will be made as to whether the proceedings should be suspended until such time as the grievance is resolved.
- 13.2 A decision will be made based on the seriousness of the performance issues presented which makes it clear that it would be inappropriate for this procedure to continue.
- 13.3 In most cases, the two procedures will run parallel.
- 13.4 It is not sufficient to raise a grievance with regards to the procedure itself, as the right of appeal is in place for this.
- 13.5 Complaints must be genuine and other procedures should not be used to try to circumvent the reasonable actions of managers to bring about improvements in an employee's performance. If an investigation concludes that the grievance or complaint was groundless and raised with the intention of avoiding or ending action being taken by the manager to bring about the necessary improvements consideration will be given to whether disciplinary action should be taken against the employee on grounds of misconduct.

### **14. EQUALITY & DIVERSITY AND MENTAL CAPACITY ACT**

- 14.1 In line with Trust policy, equality and human rights impact assessment has been completed and no significant issues have been identified. It is understood that no employee will receive less favourable treatment on the grounds of disability, age, sex, race, religion or belief, gender reassignment, pregnancy or maternity, marriage or civil partnership, working patterns or Trade Union membership or non-membership in relation to the application of this policy. The equality and human rights impact assessment is included at Appendix 1. This policy has also been assessed and meets the requirements of the Mental Capacity Act 2005.

### **15. MONITORING THE EFFECTIVENESS OF THE DOCUMENT**

- 15.1 The Trust is committed to monitoring incidents to provide identification of causes and subsequent rectifying actions.
- 15.2 The effectiveness of this policy will be monitored by HR Consultancy. Cases that are received will be reviewed to ensure a decision will be made based on the seriousness of the performance the correct procedures are being adhered to.

### **16. REVIEW**

- 16.1 This document may be reviewed at any time at the request of either staff side or management, but will automatically be reviewed after three years.

### **17. LINKS TO OTHER DOCUMENTS**

- 17.1 Links to policies in connection with:

Policy on Investigation, Analysis and Learning from Incidents, Complaints and Claims

- Serious Incidents Requiring Investigation (SIRI) Policy
  - Equality, Diversity & Human Rights Policy
  - Disciplinary Policy
  - Investigation Policy
  - Dignity at Work (Bullying and Harassment) Policy
  - Grievance Policy
  - Managing Concerns and Complaints Policy
  - Freedom to Speak Up Policy
  - Managing Attendance and Wellbeing Policy
  - Policy for Managing Performance of Medical and Dental Staff
- Records Management and Information Lifecycle Policy
- Safeguarding Children, Young People and Adults Policy
  - Claims Management Policy
  - Suspension, Exclusion and Transfer Policy
  - Agenda for Change Starting Pay and Progression Policy

**This list is not exhaustive**

## **18. REFERENCES**

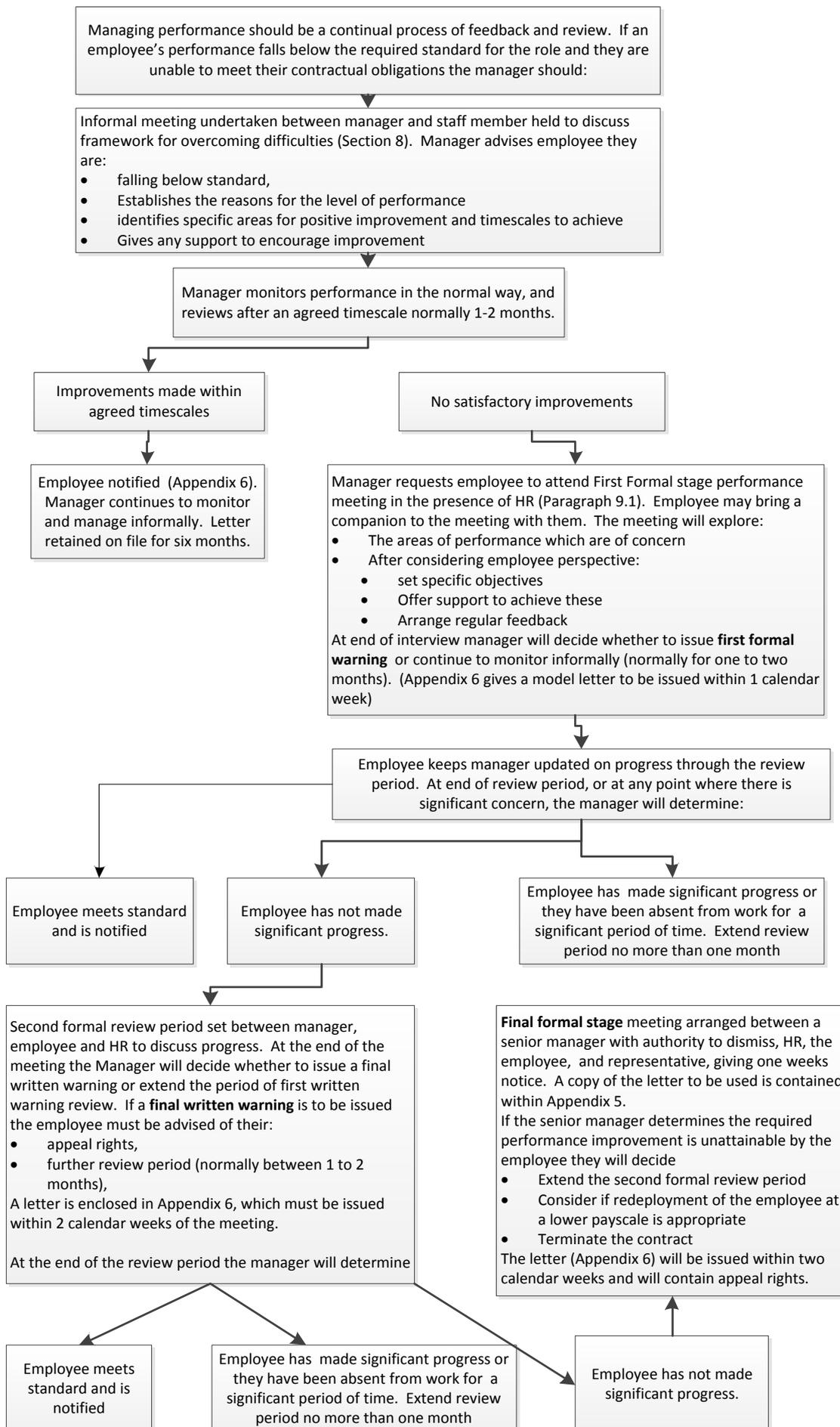
- 18.1 In relation to this policy the following references have been used; CIPD, (2010). Performance Management Factsheet, ACAS Code of Practice and NHS Improvement 'A Just Culture Guide'.

## Impact Assessment Template

Step 1 – Scoping; identify the policies aims	Answer		
1. What are the main aims and objectives of the policy?	To provide a standard framework to address issues of staff performance in a fair and consistent manner, so staff are aware of the level of performance expected from them.		
2. Who will be affected by it?	All staff.		
3. What are the existing performance indicators/measures for this? What are the outcomes you want to achieve?	To ensure that there is a fair and consistent approach to managing issues of staff performance relating to capability.		
4. What information do you already have on the equality impact of this document?	This policy will supersede the current procedures in place.		
5. Are there demographic changes or trends locally to be considered?	No		
6. What other information do you need?	None		
<b>Step 2 - Assessing the Impact; consider the data and research</b>	Yes	No	Answer (Evidence)
1. Could the policy discriminate unlawfully against any group?		X	This policy ensures all staff are treated equally and consistently.
2. Can any group benefit or be excluded?		X	This policy ensures all staff are treated equally and consistently.
3. Can any group be denied fair & equal access to or treatment as a result of this policy?		X	This policy ensures all staff are treated equally and consistently.
4. Can this actively promote good relations with and between different groups?	X		All groups are treated equally and in accordance with best practice guidelines.
5. Have you carried out any consultation internally/externally with relevant individual groups?		X	None required
6. Have you used a variety of different methods of consultation/involvement?		X	None required
<b>Mental Capacity Act implications</b>			
7. Will this policy require a decision to be made by or about a service user? (Refer to the Mental Capacity Act policy for further information)		X	Does not impact upon patients directly.
<b>External considerations</b>			
8. What external factors have been considered in the development of this policy?	X		CIPD, (2010). Performance Management Factsheet, ACAS Code of Practice and NHS Improvement 'A Just Culture Guide'.
9. Are there any external implications in relation to this policy?		X	None other than potential changes in Legislation and/or best practice guidance.

10. Which external groups may be affected positively or adversely as a consequence of this policy being implemented?		X	None.
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If there is no negative impact – end the Impact Assessment here.



**PERFORMANCE IMPROVEMENT PLAN –**

NAME: .....

DATE: .....

SPECIFIC AREA FOR IMPROVEMENT	ACTIONS	EVIDENCE REQUIRED OF IMPROVED PERFORMANCE	REVIEW METHOD	REVIEW TIMSCALE e.g. 1 month, 2 months, 4 months

Signed: ..... (Manager) Date: .....

Signed: ..... (Employee) Date: .....

FURTHER ACTION	NOTES OF REVIEW MEETING

Signed: ..... (Manager) Date: .....

Signed: ..... (Employee) Date: .....

**FEEDBACK FORM**

The purpose of feedback is to support and develop individuals by providing clear and constructive comments (positive/negative) regarding the individual's performance. Reference should be made wherever possible to identified and agreed objectives. This form should be used to document the feedback given by the Manager and the individual.

<b>Employee Name:</b>	
<b>Date:</b>	
<b>Feedback given:</b>	
<b>Key themes:</b>	
<b>Discussed on:</b>	
<b>Follow up action agreed, if any:</b>	
<b>Line Manager signature:</b>	
<b>Employee signature:</b>	

Letter inviting individual to a performance meeting

**[Note: Solent NHS Trust reserves the right for managers to amend this letter as appropriate to fit individual circumstances.]**

**Sent Recorded Delivery Private**  
**and Confidential** [Name]  
 [Address]

[Date]

Dear [Name]

**Re: [Insert stage] Stage Formal Performance Meeting**

I am writing to advise you that you are required to attend a meeting in accordance with the Trust's Performance Management Policy and further to our previous meeting on [date and time]. Your [insert stage] performance meeting will take place at [time and date] at [location]. I shall be conducting the meeting accompanied by [Insert Name] HR Advisor/Consultant, to advise on any procedural matters.

At the meeting I will spend time discussing the following areas of your performance (a copy of the job description has been enclosed for your reference):

[In summary, clarify the role using the job description and identify where the specific gaps in performance are]

- The aim of the meeting will be to identify the following:
- Clarification of the areas of performance which are of concern
- Establish your perspective
- Set specific objectives and offer appropriate support to help you achieve those
- Arrange regular feedback opportunities

It is appropriate to inform you that you may receive a warning in line with this policy [or give details of previous live warnings obtained under this policy]; a copy has been enclosed for your information.

You have the right to be accompanied at this meeting by a Staff Side representative or by a workplace friend or colleague. If you wish to be accompanied, you will need to make arrangements for this. Please refer to the Performance Management Policy for further detail in relation to staff representatives and companions.

I would also like to advise you of our Employee Assistance Programme, Workplace Options, should you require further support during this process. They can be contacted on 0800 243 458, [www.workplaceoptions.com](http://www.workplaceoptions.com) or by email [assistance@workplaceoptions.com](mailto:assistance@workplaceoptions.com)

If you have any queries, please do not hesitate to contact me.

Yours sincerely

**[Name]**

[Title]

Cc. [Insert name], HR Advisor/Consultant

Enc. Performance Management Policy

Letter confirming outcome of meeting- no further action

**[Note: Solent NHS Trust reserves the right for managers to amend this letter as appropriate to fit individual circumstances.]**

**Sent Recorded Delivery**  
**Private and Confidential**

[Name]

[Address]

[Date]

Dear [Name]

**Outcome of [Insert stage] Stage Formal Performance Meeting: No Further Action**

I am writing to confirm the outcome of your [insert stage] stage meeting held on [date]. You were present at the meeting accompanied by [insert name]. [Insert name], HR Advisor/Consultant was present to advise on any procedural matters.

I would like to summarise our discussions as follows:

Summarise the Performance Improvement Plan and the objectives set

- Summarise the review of support and training needs provided.
- Detail feedback arrangements during the performance review period.
- Detail if any external factors were taken into account.

I can now confirm that as you have demonstrated an improvement on your performance, to the required standard, no further action in line with this policy will be taken.

I must advise you that the [insert informal/formal stage] letter will remain on your file until it expires.

I would also like to advise you of our Employee Assistance Programme, Workplace Options should you require further support during this process. They can be contacted on 0800 243 458, [www.workplaceoptions.com](http://www.workplaceoptions.com) or by email [assistance@workplaceoptions.com](mailto:assistance@workplaceoptions.com)

If you have any queries regarding the content of this letter, then please do not hesitate to contact me.

Yours sincerely

**[Name]**

[Title]

Cc. [Insert name], HR Advisor/Consultant

Letter confirming outcome of meeting- written warning

**[Note: Solent NHS Trust reserves the right for managers to amend this letter as appropriate to fit individual circumstances.]**

**Sent Recorded Delivery Private  
and Confidential** [Name]  
[Address]

[Date]

Dear [Name]

**Outcome of [Insert stage] Stage Formal Performance Meeting: First Written Warning**

I am writing to confirm the outcome of your [insert stage] stage meeting held on [date]. You were present at the meeting accompanied by [insert name]. [Insert name], HR Advisor/Consultant was present to advise on any procedural matters. I would like to summarise our discussions as follows:

- Summarise the Performance Improvement Plan and the objectives set
- Summarise the review of training needs and detail, where applicable, what training will be provided
- Detail supervision arrangements during the performance review period
- Detail if any external factors were taken into account
- Provide details of a realistic time scale for monitoring and review

I have enclosed a copy of the Performance Improvement Plan which details the expectations set at our meeting.

I can now confirm that, in line with the Performance Management Policy, I am issuing you with a first written warning. This warning will remain live on your file for twelve months, after which time, if there are no further issues in your performance the warning will be disregarded and no further action will be taken. During the period this warning remains live on your file you may be exempt from any pay progression increases. On expiry of your warning, pay progression increases that would have been applied will be actioned but not backdated. For further information please see the Agenda for Change Starting Pay and Progression Policy.

It is important that I inform you that further issues in your performance could ultimately lead to another warning in line with this policy and may lead to your dismissal.

You have the right to appeal against this sanction. If you wish to do so you should write to [insert name] within one week from the date of this letter detailing the grounds of your appeal. Your appeal should be one or more of the following:

- New evidence that was not previously obtainable
- Failure to follow the procedure
- The level of sanction received

It is not sufficient merely to disagree with the decision made.

I would also like to advise you of our Employee Assistance Programme, Workplace Options should you require further support during this process. They can be contacted on 0800 243 458, [www.workplaceoptions.com](http://www.workplaceoptions.com) or by email [assistance@workplaceoptions.com](mailto:assistance@workplaceoptions.com)

If you have any queries regarding the content of this letter, then please do not hesitate to contact me.  
Yours sincerely.

**[Name]**

**[Title]**

Cc. [Insert name], HR advisor / Consultant

Enc. Performance Management Policy

Performance Improvement Plan

Letter confirming outcome of meeting- final written warning

**[Note: Solent NHS Trust reserves the right for managers to amend this letter as appropriate to fit individual circumstances.]**

**Sent Recorded Delivery Private**  
**and Confidential** [Name]

[Address]

[Date]

Dear [Name]

**Outcome of [Insert stage] Stage Formal Performance Meeting: Final Written Warning**

I am writing to confirm the outcome of your [insert stage] stage meeting held on [date]. You were present at the meeting accompanied by [insert name]. [Insert name], HR Advisor/Consultant was present to advise on any procedural matters. I would like to summarise our discussions as follows:

Summarise the Performance Improvement Plan and the objectives set

Summarise the review of training needs and detail where applicable what training will be provided

Detail supervision arrangements during the performance review period

Detail if any external factors were taken into account

Provide details of a realistic time scale for monitoring and review

I have enclosed a copy of the Performance Improvement Plan which details the expectations set at our meeting.

I can now confirm that, in line with the Performance Management Policy, I am issuing you with a final written warning. This warning will remain live on your file for twenty four months, after which time, if there are no further issues in your performance the warning will be disregarded and no further action will be taken. During the period this warning remains live on your file you may be exempt from any pay progression increases. On expiry of your warning, pay progression increases that would have been applied will be actioned but not backdated. For further information please see the Agenda for Change Starting Pay and Progression Policy.

It is important that I inform you that should your poor performance continue it may lead to your dismissal.

You have the right to appeal against this sanction. If you wish to do so you should write to [insert your manager's name] within two weeks from the date of this letter detailing the grounds of your appeal.

Your appeal should be one or more of the following:

- New evidence that was not previously obtainable
- Failure to follow the procedure
- The level of sanction received

It is not sufficient merely to disagree with the decision made.

I would also like to advise you of our Employee Assistance Programme, Workplace Options should you require further support during this process. They can be contacted on 0800 243 458, [www.workplaceoptions.com](http://www.workplaceoptions.com) or by email [assistance@workplaceoptions.com](mailto:assistance@workplaceoptions.com)

If you have any queries regarding the content of this letter, then please do not hesitate to contact me.

Yours sincerely

**[Name]**

[Title]

Cc. [Insert name], HR Advisor/Consultant

Enc. Performance Management Policy

Performance Improvement Plan

Letter confirming outcome of meeting- dismissal/ transfer

**[Note: Solent NHS Trust reserves the right for managers to amend this letter as appropriate to fit individual circumstances.]**

**Sent Recorded Delivery Private**  
**and Confidential** [Name]  
 [Address]

[Date]

Dear [Name]

**Outcome of Final Formal Stage Performance Meeting: [Dismissal/Transfer]**

I am writing to confirm the outcome of the [final stage] stage meeting held on [date]. I chaired this meeting, alongside second hearing manager [Insert name and title]. You were present at the meeting accompanied by [insert name]. [Insert name], HR Advisor/Consultant was present to advise on any procedural matters.

I would like to summarise our discussions as follows:

- The stage reached in the performance procedure
- Clear details of the continued shortfall in performance
- The review of the agreed Performance Improvement Plan in place underpinned by regular monitoring / feedback meetings
- The individual's explanation

***Insert either:***

I can now confirm that, in line with the Performance Management Policy, I have no alternative but to terminate your contract of employment by reason of poor performance.

I am terminating your contract of employment with immediate effect. Your final salary will be paid on [month and year] including your notice period of [X weeks] along with any outstanding payments and accrued holiday entitlement [X hours]. Your P45 will be sent to your home address after this date.

***Or:***

I can now confirm that, in line with the Performance Management Policy, I have no alternative but to consider terminating your contract of employment by reason of poor performance.

However, we have been successful in securing an alternative role for you, you will be transferred to [insert name of position, where it is etc] with immediate effect. I must advise you that you will be placed onto the pay arrangements and band for that post, with effect from the date of this change. If you decline to accept this change to your contract, then the only alternative for you is dismissal. Details of the expectations and objectives for you in the new role will be fully discussed with you.

It is important that I inform you that further issues in your performance could ultimately lead to your dismissal under this procedure.

***Then (for both):***

You have the right to appeal against this sanction. If you wish to do so you should write to [insert name of service manager] within two weeks from the date of this letter detailing the grounds of your appeal. Your appeal should be one or more of the following:

- New evidence that was not previously obtainable
- Failure to follow the procedure
- The level of sanction received

It is not sufficient merely to disagree with the decision made.

I would also like to advise you of our Employee Assistance Programme, should you require further support during this process. Workplace Options can be contacted on 0800 243 458, [www.workplaceoptions.com](http://www.workplaceoptions.com) or by email [assistance@workplaceoptions.com](mailto:assistance@workplaceoptions.com)

If you have any queries regarding the content of this letter, then please do not hesitate to contact me.

Yours sincerely

***[Name]***

[Title]

Cc. [Insert name], HR Advisor/Consultant

Enc. Performance Management Policy

Letter inviting individual to an appeal hearing

**[Note: Solent NHS Trust reserves the right for managers to amend this letter as appropriate to fit individual circumstances.]**

**Sent Recorded Delivery Private**  
**and Confidential** [Name]  
 [Address]

[Date]

Dear [Name]

***Re: Appeal Hearing***

Further to your letter dated [insert date], I am writing to invite you to an appeal meeting at [time and date] at [location]. I shall be conducting the meeting accompanied by second hearing manager [Insert name and title]. [Insert Name] HR Advisor/Consultant, will also be present to advise on any procedural matters.

At this appeal meeting, I will spend time discussing the reason for your appeal which may be one or more of the following:

- New evidence that was not previously obtainable
- Failure to follow the procedure
- The level of sanction received

I must advise you that this meeting will not involve a further investigation regarding your performance unless new evidence is submitted.

If you wish to provide evidence in support of your performance, please provide details of this to me no less than 2 days before the meeting is due to be held.

You have the right to be accompanied at this meeting by a Staff Side or Trade Union representative or by a workplace friend or colleague. If you wish to be accompanied, you will need to make arrangements for this. Please refer to the Organisational Change and Consultation Policy for further detail in relation to staff representatives and companions.

I would also like to advise you of our Employee Assistance Programme, should you require further support during this process. Workplace Options can be contacted on 0800 243 458, [www.workplaceoptions.com](http://www.workplaceoptions.com) or by email [assistance@workplaceoptions.com](mailto:assistance@workplaceoptions.com).

If you have any queries regarding the content of this letter, then please do not hesitate to contact me.

Yours sincerely

**[Name]**  
 [Title]

Cc. [Insert name], HR Advisor/Consultant

Enc. Performance Management Policy

Letter confirming outcome of appeal meeting

**[Note: Solent NHS Trust reserves the right for managers to amend this letter as appropriate to fit individual circumstances.]**

**Sent Recorded Delivery Private  
and Confidential [Name]  
[Address]**

[Date]

Dear [Name]

### **Outcome of Appeal**

I am writing to confirm the outcome of your appeal meeting held on [date]. I chaired the meeting, accompanied by second hearing manager [Insert name and title]. You were present at the meeting accompanied by [insert name]. [Insert name], HR Advisor/Consultant was present to advise on any procedural matters.

At this meeting we discussed the reasons for your appeal and the outcome you wished to achieve.

In reaching a conclusion, I considered your comments carefully along with all aspects of Trust policy and practice. Based on the evidence presented, I can confirm that I [do / do not] uphold your appeal.

#### ***Insert either:***

I can confirm that the sanction you were issued with under the Performance Management Policy will therefore stand. There is no further right to appeal this decision under this procedure.

#### ***Or:***

I can confirm that the sanction you were issued with under the Performance Management Policy will therefore be revoked with immediate effect and the following will now apply:

[Substitute the sanction for a lesser one]  
[Overturn the original decision]

There is no further right to appeal this decision under this section of the procedure.

I would also like to advise you of our Employee Assistance Programme, should you require further support during this process. Workplace Options can be contacted on 0800 243 458, [www.workplaceoptions.com](http://www.workplaceoptions.com) or by email [assistance@workplaceoptions.com](mailto:assistance@workplaceoptions.com)

If you have any queries regarding the content of this letter, then please do not hesitate to contact me.

Yours sincerely

**[Name]**  
[Title]

Cc. [Insert name], HR Advisor/Consultant

Enc. Performance Management Policy