

REPORT TO: Cabinet

MEETING DATE: 11 November 2014

BY: Depute Chief Executive (Resources and People Services)

SUBJECT: Managing Employee Performance Policy

1 PURPOSE

- 1.1 There is a need to revise and simplify the Council's Managing Employee Performance Policy.
- 1.2 The purpose of these proposed changes is to:
- Streamline the process for line managers in relation to managing employee performance.
 - Clearly define the responsibilities of managers and employees in regards to performance
 - Ensure consistency and fairness in the management of performance and application of the policy.
 - Support managers to identify performance issues, and ensure appropriately skilled employees are recruited
 - Improve both employee performance and the standards of service provided
 - Ensure that a common policy applies to all employees as far as possible, including the Chief Executive, Chief Officers and teaching employees, where the competence issues are not already covered by the General Teaching for Scotland Code of Practice on Competence – although this Policy will have to also be approved through the Local Negotiating Committee for Teachers (LNCT).
 - To document appropriate links between managing performance and other Policies

2 RECOMMENDATIONS

- 2.1 The Cabinet is asked to note/approve/accept the revisions to the Managing Employee Performance Policy. The Policy has been approved by the Corporate Management Team and has been open for consultation with staff and the Trade Unions, and amendments made in accordance with the feedback received from employees.
- 2.2 No feedback was received from the Joint Trades Unions.

3 BACKGROUND

- 3.1 Since the current Managing Employee Performance Policy was implemented in June 2008, very few employees have been managed under its auspices. Feedback would suggest that this is because managers find the current Policy too onerous.
- 3.2 It is felt that a clearer and more streamlined process would be beneficial in both indentifying and addressing employee performance issues.
- 3.3 Key changes to the Policy are:
- To cover all employee groups – except in relation to teaching duties which are covered by a separate policy.
 - Greater clarity about “What is Poor Performance”
 - Timescales
 - Reduction to 3 stages instead of 5
 - Introduction of the option for redeployment to be considered prior to moving to a Performance Capability Hearing.

4 POLICY IMPLICATIONS

- 4.1 The changes to this Policy simplify the procedure for Managers and Employees, and a separate guidance note is provided to ensure that the Policy is implemented appropriately.

5 EQUALITIES IMPACT ASSESSMENT

- 5.1 An Equalities Impact Assessment has been carried out for this Policy.

6 RESOURCE IMPLICATIONS

- 6.1 Financial – There will be no additional costs to the Council.

- 6.2 Human Resources –Trades Unions have been consulted and have not commented. If approved by Cabinet, in order for the Policy to be applied to those staff covered by the Scottish Negotiating Committee for Teaching Staff (and associated professionals), it would still need to be approved through the LNCT.
- 6.3 Other – Additional support and training will be provided to line managers by the HR Operations team.

7 BACKGROUND PAPERS

- 7.1 Appendix A – Proposed Managing Employee Performance Policy
- 7.2 Proposed Managers Guidance (available on request)

AUTHOR'S NAME	Janette Horsburgh
DESIGNATION	HR Adviser
CONTACT INFO	Ext 7597
DATE	16 th October 2014

This policy applies to all employees of the Council except where matters relate to the Standards for Full Registration of a Teacher.

MANAGING EMPLOYEE PERFORMANCE POLICY

Section

- 1 Introduction
- 2 Recruitment and Selection
- 3 Learning and Development
- 4 What is Poor Performance
- 5 Managers Responsibilities
- 6 Employees Responsibilities
- 7 Salary Progression
- 8 Identifying Performance Issues
- 9 Timescales
- 10 Procedure for Managing Employee Performance
- 11 Appeals
- 12 Review

Appendix A – Chief Executive Capability Framework

This is a Council policy which has been subject to consultation with the Joint Trades Unions. Any review or amendment by the Council will be following consultation with the Trades Unions.

**MANAGING EMPLOYEE
PERFORMANCE POLICY**

<date>

1. Introduction

1.1 The Council recognises that to achieve its objectives of delivering a high level of service to its citizens and communities, it is essential to establish and maintain relevant performance standards across the workforce. Generally employees perform to a high standard at work however this Policy aims to ensure that an employee is notified of any concerns with regards to their performance and that a reasonable amount of time and support are provided to the employee in achieving the required levels of performance. The Council aims to promote a high performance culture across the organisation using the following key principles:

- Promoting and applying effective recruitment and selection processes
- Ensuring that all employees know and understand the standards expected of them
- Ensuring that performance feedback is given on a regular basis and that poor performance is dealt with quickly, effectively and ensuring that clear outcomes are identified throughout the process
- Encouraging continuous learning, development and support
- Providing a supportive and constructive approach to the management of performance

1.2 All employees should have a clear understanding of the role they are employed to carry out and the performance standards they are expected to achieve through the recruitment and selection process, regular supervision meetings and their Performance Review and Development (PRD)/ Career Long Professional Learning (CLPL) meetings. Employees have a contractual duty to perform their duties to the standards required by their Employer. It is recognised that there will be occasions when an employee may fall below the required standards for a number of possible reasons and this Policy will ensure that fair and supportive procedures are in place to address these situations.

2. Recruitment and Selection (link to R&S Policy)

On appointment all employees should meet at least the minimum criteria for the position, measured against the Person Specification. The recruitment and selection process should enable objective evidence to be gathered to measure the employee's competence to perform the job to the required standard. This could be evidenced through appropriate skills testing at the recruitment process i.e. presentation, case study, in-tray exercise, skills test.

3. Learning and Development

It is recognised that the continuous development of employees is essential to maintain and enhance job performance and service delivery, as the skill requirements for jobs change. All employees should have access to appropriate learning in line with the [Learning at Work Policy](#) and every employee should have an updated personal development plan following their Performance Review and Development (PRD) or Career Long Professional Learning (CLPL) meeting.

4. What is Poor Performance?

Poor performance is when the employee does not meet the necessary standards of work for their job, or demonstrate the appropriate behaviours expected of an employee of the Council. This could include, but is not limited to: not meeting agreed targets or providing satisfactory service, and may be the result of a lack of necessary skills and/or other factors.

Poor performance can manifest itself in a number of ways that could include:

- Unacceptable quality of work
- Unacceptable quantity of work completed
- Not meeting timescales
- Poor judgement
- Behaviour leading or contributing to poor working relationships
- Poor practice, which does not follow Council Policy or service practice
- Poor attitude
- Not meeting the demands/requirements of the post due to skills or knowledge gaps
- Inappropriate behaviour e.g. lack of respect, not being courteous. Employees should adopt the principles defined within the [East Lothian Way](#), and within the [Customer Care Charter](#)
- Unwillingness to meet the demands/requirements of the post or to gain the necessary skills

Occasionally poor performance can be caused wholly or in part by health conditions. In this case, the employee should be referred to Occupational Health. Depending on Occupational Health advice, it may be appropriate to manage under the Council's Managing Attendance Policy.

5. Manager's Responsibilities

Line managers have a responsibility for ensuring that:-

- The performance standards expected of employees are based on job requirements as detailed in the job overview, job outline and person specification.
- All employees are aware of and understand the performance standards expected of them through the recruitment process, regular supervision meetings and their PRD/CLPL meetings.
- Individual employees are given regular, constructive feedback on performance and are informed of any failure to meet performance standards as soon as possible
- If changes are made to the Job Outline, all employees have an up to date copy
- Employees are given reasonable time, support and training to enable them to improve job performance
- An employee's workload is reasonable

6. Employee Responsibilities

Employees are responsible for ensuring that:-

- They make reasonable efforts to keep themselves up to date with the skills and knowledge needed to perform their duties to the standard required of them
- Where appropriate, they fulfil the continuous professional development (CPD) requirements of their profession, keeping records as appropriate
- They behave in a professional manner and are aware of how their behaviours affects others
- They inform their line manager of any potential difficulties or concerns including health issues that may affect their ability to carry out the duties of their post effectively.

7. Salary Progression

The Council's [Salary Progression Policy](#) identifies criteria for determining whether an employee should receive an annual increment and how the application of specific Council procedures may result in the withholding of an increment, where applicable.

Where an employee's unacceptable performance has been addressed under the Managing Employee Performance Policy their progression to a further increment may be affected.

For Craft Operatives please refer to the Performance Related Salary and Conditions of Service Agreement (Green Book).

8. Identifying Performance Issues

When assessing an employee's performance, an objective comparison should be made against the specific requirements of the job. Performance should be measured against:

- The job outline/job overview
- Person specification
- Recognised competencies for the job (if applicable)
- Individual work plans
- PRD/CLPL documentation
- Behaviours as defined in the East Lothian Way

In some instances poor performance may be related to specific individual issues, including health-related issues. It is essential that managers are aware of this and, where appropriate, respond positively by implementing measures that aim to remove any barriers, to satisfactory performance. This may include implementing "reasonable adjustments" in accordance with the requirements of the Equality Act 2010. HR in conjunction with Occupational Health, if required, will provide appropriate advice and support to managers.

9. Timescales

The line manager should agree a suitable period for reviewing the employee's performance. This period of time should be sufficient to allow any areas of necessary improvement to be addressed. This time period may vary depending on the improvements required, but should be for no more than a period of 8 working weeks for each of stages 1 and 2 of the Policy. If the necessary improvement has not been made within this time scale then the matter should be progressed to the next relevant stage of the Policy.

10. Procedure for Managing Employee Performance

Where performance matters relate to the Chief Executive the procedure set out in Appendix A should be followed.

This Policy need not stand alone, but should be used in conjunction with other policies where appropriate i.e. absence issues through the Managing Attendance Policy.

The procedure comprises 3 stages:

Stage 1 – Performance and Support Meeting

- Review. Outcome of review is either successful conclusion to stage 1, progression to stage 2, or conduct issue and therefore dealt with in accordance with the Disciplinary Procedure

Stage 2 – Formal Performance and Support Meeting

- Review. Outcome of review is either successful conclusion to stage 2, potential redeployment sought, progression to stage 3 (capability hearing)

Stage 3 – Performance Management Hearing

Stage 1 – Performance and Support Meeting

Where an employee is performing below the acceptable standard, the employee's line manager should raise their concerns with the employee and discuss what factors could be contributing to this.

Prior to this meeting the manager should prepare the facts and specific examples regarding the performance issues and have details of any concerns in relation to the employee's standards of work so that accurate information is available for this discussion.

This is an informal discussion between the line manager and the employee, with neither party requiring to be accompanied. It should be made clear to the employee that performance issues are being raised in accordance with this Policy.

Any issues to be addressed should be included within the **Performance Record**, along with any proposed support measures and required improvements/expected outcomes and timescales agreed for a Stage 1 review meeting.

Stage 1 – Review Meeting

If at the Stage 1 review meeting it is concluded that performance standards are now being achieved, the performance improvement will be noted within the Performance Record and normal supervision will be resumed.

If at the Stage 1 review meeting, the conclusion is that performance standards are still not being met the reasons for this will be confirmed in writing. If the issue relates to capability then the matter will be progressed to Stage 2.

If the performance issues are due to the employee's conduct, (where there is reasonable belief that the employee has the skills/abilities to perform the duties satisfactorily but the poor performance is a conduct/attitude /behavioural issue) then the matter should be addressed in accordance with the relevant Disciplinary Procedure. As the performance issues will have been considered informally, as part of this Policy, the matter will be addressed under the formal part of the Disciplinary Procedure. This should be confirmed to the employee in writing.

Stage 2 – Formal Performance and Support Meeting

If the required standard has not been achieved within Stage 1, a formal Stage 2 meeting will be held and any continuing or new areas of poor performance will be discussed, and recorded on the Performance Record along with proposed support measures and required improvements/expected outcomes.

The employee will be given 5 days notice of this meeting and may choose to be accompanied.

A date and time for the Stage 2 review meeting will be confirmed in writing.

Stage 2 – Review Meeting

If at the Stage 2 review meeting, the conclusion is that performance standards are still not being met, the manager will then decide whether to:

- Agree that an extension to the review period is given (where there is a genuine attempt to reach the required standard and some of these standards have been achieved, but additional development needs require to be met)
- Discuss the possibility of redeployment. This option will only be pursued if there is sound reason to believe that the employee may have the skills, experience and knowledge to satisfactorily fulfil a different role. If this is agreed the employee will be required to complete a personal profile form and will be placed on the re-deployment database for a period of 4 weeks. If no alternative employment is found then the performance management hearing process detailed in Stage 3 should be followed.
- Proceed to Stage 3 – Performance Management Hearing (where there has been a genuine attempt to reach the required standard but despite additional support and development the employee has failed to achieve or maintain this)

The line manager will confirm their decision in writing.

Stage 3 – Performance Management Hearing

If the required standard is still not achieved at the Stage 2 review meeting, despite reasonable efforts having been made by both parties and redeployment options considered, then the manager will prepare a report detailing the process, issues, support, resources, timescales put in place and submit to the relevant Head of Service. The relevant Head of Service/Senior Nominated Officer will convene a hearing and will forward the report to the employee explaining why the hearing has been called. The employee will be given a minimum of 5 working days notice of the hearing to give them time to prepare their response.

The Head of Service/ Senior Nominated Officer, with support from an HR representative, will make a decision based on the evidence presented as to whether a dismissal is justified.

The outcome of the hearing will be confirmed in writing to the employee, normally within 5 working days of the hearing. If a decision has been made to dismiss then the employee should be notified of their right to appeal.

11. Appeals

Any employee who feels that they have been unfairly dismissed on the grounds of their performance has the right to appeal that decision by setting out the ground(s) of their appeal in writing to the Head of Council Resources. The appeal must be submitted within 10 days of receipt of the letter confirming their dismissal and should detail clearly the grounds of the appeal. As this is a dismissal from employment the appeal procedure, as detailed within the relevant Council Disciplinary Procedure should be followed.

12. Review

This is a Council policy which is subject to review and amendment by the Council. The Policy will be reviewed and amended from time to time by the Head of Council Resources following appropriate consultation with the recognised Trades Unions.

Head of Council Resources
DATE

Chief Executive Capability Framework

The Chief Executive Capability Framework should be read in conjunction with Appendix A of the Council's Disciplinary Procedure which sets out the Chief Executive Disciplinary Framework.

1. In the first instance any question or complaint with regard to a Chief Executive's capability will be referred to an Assessment Group which will be appointed as per section 1 of Appendix A of the Disciplinary Procedure.
2. The Assessment Group will meet with the Chief Executive to discuss the nature of the complaint or question.
3. If the Assessment Group concludes that there is a question of substance as to the Chief Executive's capability they will advise the Chief Executive of the ways in which performance should improve and a period of time after which the matter will be reviewed. This period should be sufficient to allow the Chief Executive a reasonable opportunity to show the required level of improved performance.
4. If the Assessment Group consider that there is evidence of serious incapability which is not likely to be remedied within a reasonable period of time, or if a previous warning has been issued to the Chief Executive in regard to performance then the Assessment Group will refer the matter to an Investigating Officer.
5. Similarly if subsequent to 3 above there remains a question as to the capability of the Chief Executive the matter will be referred to an Investigating Officer.
6. The Investigating Officer will be appointed and the investigation conducted as per section 2 of Appendix A of the Disciplinary Procedure.
7. Upon receipt of the report from the Investigating Officer, the Assessment Group will decide whether or not the matter should proceed to a Hearing Committee.
8. The Hearing Committee will be appointed as per section 3 of Appendix A of the Disciplinary Procedure. The conduct of the hearing will be as per section 3 of Appendix A of the Disciplinary Procedure.
9. If the Hearing Committee conclude that the Chief Executive is not carrying out his/her duties and responsibilities to the level of capability that the Council believes is required, the Hearing Committee will consider issuing a written warning with the provision of a reasonable amount of time for the Chief Executive to meet the requirements of the post, or (if a previous warning has been issued or, the Hearing Committee judge the incapability to be fundamentally irremediable) confirm dismissal with notice. A satisfactory outcome may alternatively be achieved by the Chief Executive actively

seeking other employment, resigning or accepting retirement.

10. The Chief Executive will have the right to appeal the decision of the Hearing Committee to an Appeals Committee. The appointment of that Committee and conduct of the appeal will be as per Appendix A of the Disciplinary Procedure.

DRAFT