



HR Policy

Employee Performance Management Policy and Procedure
[] 2018



Human Resources

Employee Performance Management Policy and Procedures

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1. Introduction

Brent Council is committed to providing our customers and colleagues with the highest level of service. The performance of our staff is key to ensuring the high standards we expect to deliver and managers are expected to proactively monitor and manage the performance of staff to maintain these high standards.

This policy does not provide guidance to managers about how to conduct appraisals or one to one supervisions. Specific guidance exists for managers to assist them with both: “*A manager’s guide to conducting appraisals*” and “*One to One Discussions: Supervisions Guidance*”, to which managers should refer.

The primary aim of this procedure is to provide a framework within which managers can work with employees to maintain satisfactory performance standards and to encourage improvement where necessary. It applies to all employees regardless of length of service. It does not apply to agency workers or self-employed contractors. The policy does not apply to school based staff where the school has a delegated budget.

2. Our approach

Managing the performance of employees is a continuous two way process. It involves making sure that employee performance contributes to both team goals and those of the business as a whole. The aim is to continuously improve the performance of individuals and that of the organisation.

Good performance management helps everyone in the organisation to know:

- what the business is trying to achieve
- their role in helping the business achieve its goals
- the skills and competences they need to fulfil their role
- the standards of performance required
- how they can develop their performance and contribute to the development of the organisation
- how they are doing
- when there are performance problems and what to do about them.

Managing performance is central to the relationship between managers and employees and can be a key element of good communication, contributing to the growth of trust and personal development. Managing performance is key to how well employees will be engaged in their work and how well they will perform.

An engaged employee is someone who:

- takes pride in their job and shows loyalty towards their line manager, team and organisation
- goes the extra mile – particularly in areas like customer service, or where employees need to be creative, responsive or adaptable.

Employees are expected to perform their duties and responsibilities to the standards agreed with their manager, and to be supported and assisted in achieving these standards by their manager.

The management of performance starts with the induction process when an employee joins the Council, moving through the probationary period, regular 1-1s/supervision, formal appraisal and relevant personal and professional development.

In the vast majority of cases, employees are motivated and committed to fulfilling their duties to the required standard, but the Employee Performance Management Policy provides a fair and coherent approach when employees are struggling to reach and maintain the required levels of performance, with guidance on best management practice and how to seek solutions to the issues raised. Throughout the process emphasis is placed on a two way framework of support and regular feedback, addressing under-performance quickly and setting clear goals and targets. Performance improvement should be achieved through regular supervision, one to one meetings, coaching, mentoring, training and development.

3. Policy statement

3.1 Policy summary

Brent's Employee Performance Management Policy forms part of the council's performance management framework.

Every effort will be made by managers to resolve performance issues informally. However, where informal action does not achieve the required improvement formal action must be taken.

The policy is designed to work in conjunction with other Council policies, procedures and guidance including *Attendance Management Policy and Procedure*, *Guidance for line managers: Reasonable adjustments for employees with a disability or health condition*, *One to One Discussions (Supervision)*, *A Manager's Guide to Conducting Appraisals*, *Disciplinary Policy and Procedure*, *Grievance Policy and Procedure*, *Code of Practice on the English language requirements for public sector workers* and the *Brent Council Code of Conduct*. Advice should be taken from Human Resources when dealing with performance issues which are impacted on by any of the above policies or the protected characteristics of: age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, gender, sexual orientation.

Managers should take primary responsibility for the effective implementation of this policy across the council. They are also responsible for managing the equality impact of the policy and preventing adverse impact on any particular groups of employees wherever possible.

This policy is non contractual. Legal representation is not permitted at any stage of the procedure.

4. Definitions and general information

4.1 Scope of the policy

The policy applies to all employees of the council with the exception of:

- Employees in their probationary period. Poor performance during the probationary period should be handled under the council's Probationary Procedure
- School based staff where the school has a delegated budget
- Agency workers, who are not employees of the council. Any capability issues should be addressed with the employing agency.

4.2 Employee performance management policy

A performance management system will help managers regularly review performance and identify problems early on. In most cases action can be agreed between the manager and employee to remedy any problems at the earliest opportunity.

Support and coaching by managers will help employees understand possible options for improving performance and take the necessary action. Under-performance may have a variety of causes and some of them may be outside the individual employee's control. It is therefore important to discuss any problems carefully with employees so that practical solutions can be agreed.

This policy explains the general principles managers and employees should adopt to support a culture of high performance, but also outlines actions to be taken where an employee is unable to undertake and perform tasks to the required standard. This is different from the employee being capable of carrying out the tasks but choosing not to, which would be considered as a matter of misconduct and may be subject to action under the disciplinary policy.

Any disagreement between the manager and the employee concerning the interpretation of the policy should be referred in the first instance to the Senior HR Adviser.

Deferral of this policy will be by exception as advised by a Senior HR Adviser.

4.3 Contractual notice

An employee who is dismissed from the Council's service following application of this policy will normally be entitled to contractual notice which may be paid in lieu. Where the employee is required to work their notice period, they will continue to be bound by the terms of their employment contract during the notice period. As such they will be expected to attend work, other than in periods of authorised absence, and to carry out reasonable management instructions, as a condition of their continued payment during the notice period.

4.4 Confidentiality

Confidentiality will be maintained at all times during the performance management process. This applies to all correspondence, reports and other documentation. Circulation of information will be that which is necessary to ensure a fair process.

4.5 Records retention

Records must be kept detailing action taken in relation to the Employee Performance Management Policy and will be retained on the employee's personal file. These will include:

- The nature of the underperformance
- Action taken and the reasons for it
- Whether an appeal was lodged, and its outcome
- Any subsequent developments

4.6 Correspondence

All correspondence with employees subject to the Employee Performance Management Policy, including letters convening meetings/hearings, documentary evidence and decisions of hearings will be sent by email, with a copy by recorded delivery.

4.7 Qualifications and compliance issues

For certain occupations there is a requirement for an employee to hold a specific regulatory classification and/or to maintain a certain standard in order to carry out their job, e.g. registration with a professional organisation. Formal action under this policy may have implications for such an employee's membership of a professional organisation and/or their ability to continue to carry out the job.

If the employee's continued fulfilment of their job would be compromised, the manager must seek the advice of a Senior HR Adviser.

If the employee is registered with a statutory body, such as the Health and Care Professionals Council (HCPC), serious underperformance issues may need to be reported whilst steps are being taken to improve performance. This will not preclude matters from being dealt with internally as normal. However, if registration is withdrawn by external regulators, the case will need to be reviewed in order to assess the impact on the individual's ability to continue to do their job.

Where qualification and/or compliance issues may be involved, the relevant Operational Director must be consulted before formal action commences.

4.8 Immediate action

There may be occasions where an employee's level of under-performance exposes the council to significant risk if the underperformance continues and immediate action is therefore necessary. There may be other circumstances which may also warrant prompt action, e.g. an employee refuses to accept that there is a problem with their performance, and refuses to co-operate with attempts to achieve an improvement, or where the employee is grossly incompetent. In such instances, a decision may be made to proceed directly to Stage 2 of the policy without taking action under Stage 1. Consideration should also be given as to whether the employee's action constitutes potential misconduct, which may justify suspension from duty and action under the disciplinary policy. In such circumstances advice should be sought from the HR Manager before any action is taken.

4.9 Alternative employment

Where an employee has been unable to improve or sustain an improvement in their performance, consideration will be given at the Stage 2 meeting to redeployment as an alternative to dismissal. This may include looking for jobs requiring different skills which are compatible with those possessed by the employee, or for less responsible jobs and the employee will be placed on the redeployment register to facilitate the search.

Any offer of alternative employment will be made in writing, setting out why the offer is being made and the consequences of refusing the offer. The employee should be given at least seven working days' notice to consider the offer and discuss it with their representative.

Any offer of alternative employment will be made on a salary equivalent to the rate for the new job. Where the grade of the job being offered is lower, the starting salary will be calculated to take into account years of service served at that or a higher grade, but no pay protection will apply.

Where an employee is employed in a post which includes linked grades, consideration will be given to returning the employee to a lower grade within the same role, if appropriate.

If the employee does not wish to be considered for this option, dismissal may be the only

remaining outcome.

4.10 Review meetings

Performance Review meetings provide the opportunity to set and revise targets, review progress, provide feedback and consider any other action that may be required.

Where early intervention and good management practice through the normal channels does not achieve the required improvement in performance, or the under-performance is more serious, the manager must proceed to the next stage (i.e. first formal stage or first formal stage to second formal stage).

5. Action involving trade union representatives

Where concerns about performance involve an employee who is a representative of a recognised trade union, the manager should seek the employee's consent for the matter to be discussed at an early stage with an official employed by the relevant trade union. The HR Manager should also be notified as soon as possible about cases involving trade union representatives and will advise if any other action is required. This should not delay managers taking the appropriate steps in the normal way under this policy.

6. Roles and responsibilities

6.1 Employees

Employees are expected to perform their duties at a satisfactory level and to be committed to achieving and maintaining such levels of performance. If they have any concerns about their ability to fulfil their duties, employees should discuss these with their manager and co-operate with any plans agreed to improve the standard of their work.

6.2 Line managers

The person who can get the best out of individuals and teams is usually their line manager, who works closest to them. Line managers are best placed to talk to employees, to listen to their concerns, to counsel and coach them, to check they meet their targets and to ensure they are committed to the business. The success of a performance management system rests largely on line managers. They can help to link business goals with employee performance by putting them into the context of employees' work.

Line managers:

- agree objectives, competencies and development needs with individuals so that they contribute to business goals
- hold an annual appraisal review with the employee and review individual performance against objectives and competencies throughout the year
- give feedback and discuss amendments to individual objectives as circumstances change
- agree the most important skills and behaviours necessary to do the job well and agree a personal development plan
- help staff to achieve objectives through coaching and provide access to training or other development opportunities
- manage under-performance

Where employees do not meet expectations, line managers are required to implement the employee performance management procedures fairly and consistently and ensure that any

concerns about performance are addressed promptly and within the timeframes outlined in the procedure.

6.3 Directors, Operational Directors and Service Heads

Directors, Operational Directors and Service Heads have a responsibility to set the strategic direction and promote a culture of high performance.

Directors, Operational Directors or Service Heads also have authority to dismiss employees and hear appeals against dismissal. They should be at the same level of seniority or at a higher level than the manager who took the decision to dismiss.

6.4 Human Resources

Human Resources provide advice and support and will attend all Stage Two meetings and appeal hearings.

6.5 Representation

Employees have the right to advice and guidance at any formal stage in this procedure. Employees also have the right to be represented and/or accompanied by either:

- A trade union representative
- A work colleague (a person who is a Brent council worker) but not a legal representative.

It is the employee's responsibility to organise representation on the relevant date. However, as far as possible, employees and their representatives will be consulted on the timing of meetings/hearings.

The representative can put forward a case on behalf of the employee and can give advice and support during the process. The representative cannot, however, answer questions for the employee. The employee must at all stages respond to questions asked during a meeting held under this procedure.

7. Monitoring and review

Application of the policy and decisions taken on performance management matters will be monitored to ensure consistency and fairness.

This policy will be reviewed as necessary to take account of legislative changes, operational experience and best practice. Any changes to the policy will be undertaken following consultation with the recognised Trade Unions.

8. Timescales

All parties involved in the proceedings have an obligation to co-operate in ensuring that processes and timescales set out in this policy are followed. The only exception to this is where the outcome of a case would otherwise be prejudiced. Managers should discuss any variations to the timescale with a Senior HR Adviser and inform their manager before taking any action.

9. Records of interviews, meetings and hearings

A written record of all interviews and hearings must be made. It will not be a verbatim record but

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will accurately reflect all of the issues raised at the interview/hearing and the actions required to rectify performance in line with the requirements and standards for the job.

The manager is responsible for producing the record and, if necessary, may arrange for a note taker. Any dispute about the accuracy of the summary will be resolved by the manager with the individual employee. If the employee disagrees with the record of the meeting, they can ask for their comments to be noted for future reference.

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Employee Performance Management Procedure

1 Formal Action

Where a manager is contemplating instigating formal performance management processes, they must first contact a Senior HR Adviser to discuss the actions taken to date in relation to objective and/or standard setting, coaching, training and development or other actions relevant to the concerns about the employee's performance. Such actions can vary depending on the nature of the role, but could for example include providing additional training, allowing an employee to shadow another member of staff, providing them with a mentor. If it is agreed that the actions taken up to this point were appropriate but have not resulted in the required level of improvement, the formal performance management procedure should be initiated.

1.1 Stage 1

A meeting between the employee and the manager will be held. The manager will write to the employee setting out:

- The requirement to attend a performance review meeting giving seven working days' notice
- Date, time and venue of the meeting
- Concerns about performance which have triggered the need to convene a Stage 1 meeting, based on the actions taken to date or highlighting any new concerns which may have arisen
- The right to be represented

The aims of the meeting are to:

- Review the previous actions taken
- Specify where performance continues to fall short of the standard required
- Agree a formal action plan, which sets targets for improvement, specifies support to be provided and identifies measures and the timescale against which performance will be assessed
- Warn the employee that their employment could be at risk if their performance does not improve
- Set a date for a further meeting to review progress against the performance targets set for improvement.

The length of the review period will be dependent on the nature of the job but will normally be for between one and three months. The manager and employee must meet regularly during the review period, weekly in the case of a one month plan and at least monthly in the case of a longer plan to assess progress against the plan.

There are three possible outcomes at the end of the review period:

1. Performance has improved to the required standard and no further action is required, other than to inform the employee of the need to sustain the level of improvement. The management of the employee's performance will revert to normal regular supervision and one to ones. If the employee is unable to maintain the required level of performance, this should be discussed with them as soon as possible to identify the reason for the deterioration. Depending on the reason, a decision should be taken

whether a further period of formal action is required at Stage 1 or whether it would be appropriate to progress to Stage 2. Should the deterioration in performance take place after 12 months or more have elapsed, it is expected that any action required would be taken under Stage 1. Any proposal to progress to Stage 2 would only be taken after discussion of the circumstances with HR.

2. Where an employee's performance has not met the standard but there is evidence to show that a further period of monitoring and review is likely to achieve the standard, a decision may be taken to extend the initial review period for a further period of up to one month. The manager and employee will revise the action plan based on progress made, and the arrangements set out in the plan for monitoring and reviewing performance will be followed. This may include temporary adjustments to the role to enable the employee to focus on the specific aspects giving concern.
3. If it is clear during, or at the end of, the review period (or extended review period) that the employee's performance will not reach the required standard by the end of the period the manager should proceed to Stage Two.

The line manager will confirm the outcome of the meeting in writing within five working days of the verbal notification of the decision. In all cases, the manager will confirm that a failure to maintain or improve performance could lead to Stage 2 of the procedure and potential dismissal.

There is no right of appeal against a Stage 1 outcome.

1.2 Stage 2

A Stage 2 meeting will be convened where there has been insufficient improvement at the end of Stage 1. The meeting will be conducted by a manager who is authorised to dismiss, who has had no previous involvement in the case, advised by a Senior HR Adviser. The hearing manager will give the employee at least seven working days' notice of the meeting.

The written notification will set out:

- The requirement to attend a Stage 2 meeting
- Date, time and venue of the meeting
- The manager's continuing concerns about underperformance which have triggered the need to convene a Stage 2 meeting
- That a potential outcome of the Stage 2 meeting is dismissal
- The employee's right to be represented

Any supporting evidence on which management or the employee may wish to rely at the meeting should be provided to the other party and to the hearing manager in advance of the meeting.

The aims of the meeting are to:

- Review performance and the action taken to achieve the required improvement
- Where improvement has been unacceptable, consider the reasons given for the lack of improvement
- Consider whether the employee has demonstrated that, with further support, they are likely to achieve the required level of improvement
- If so, review and, as appropriate, revise the action plan and determine the timescale for improvement and set a date for a further Stage 2 meeting
- Consider whether redeployment may be appropriate

- Determine whether to dismiss on the grounds of lack of capability

There are three possible outcomes at the end of Stage 2:

1. Where there is evidence to show that a further period of monitoring and review is likely to achieve the required standard, a decision may be taken to extend the review period for a further period of up to one month. The manager and employee will revise the action plan based on progress made, and the arrangements set out in the plan for monitoring and reviewing performance will be followed.
NB At the end of a Stage 2 extended review period, if the employee's performance has not met the required standard, a further Stage 2 meeting will be convened at which the hearing manager will take a decision to recommend redeployment or decide to dismiss on the grounds of lack of capability.
2. Consider whether redeployment may be appropriate and obtain the employee's decision as to whether to pursue redeployment
3. Dismissal on the grounds of lack of capability and whether to issue notice or to pay in lieu of notice

The hearing manager will confirm the outcome of the meeting in writing within five working days.

Where the required level of improvement is achieved following the extended review period, the management of the employee's performance will revert to normal regular supervision and one to ones. If the employee is unable to maintain the required level of performance, this should be discussed with them as soon as possible to identify the reason for the deterioration. Depending on the reason, a decision should be taken whether a further period of formal monitoring is required followed by a further Stage 2 meeting. Should the deterioration in performance take place after 24 months or more have elapsed, it is expected that any action required would be taken under Stage 1. Any proposal to reconvene a Stage 2 meeting would only be taken after discussion of the circumstances with HR.

2. Appeals

Any employee who is dissatisfied with a decision to dismiss on the grounds of capability has a right of appeal. The Appeal Hearing Officer will be at the level of seniority of Strategic Director, Operational Director or Head of Service and will be at the same level of seniority or at a higher level than the manager who took the decision to dismiss, and will be the manager specified in the letter to the employee confirming the outcome of the hearing. The Dismissing Manager will normally present the management case at the appeal hearing. The appeal must be lodged within 10 working days of the date of the letter confirming the dismissal decision.

The appeal must be made in writing and must clearly and specifically state in detail the ground or grounds for appeal and the detailed basis for each ground of appeal relied on. The ground(s) for appeal must fall within one or more of the following categories:

- There was a procedural irregularity which had a material effect on the dismissal decision
- The hearing officer came to a conclusion on a material point of fact which no reasonable person could have come to
- The decision to opt for dismissal rather than an alternative option was one that would not have been reached by any reasonable employer
- There is new evidence which the employee wishes to introduce for the first time at the appeal which could not reasonably have been raised at the original hearing and the

absence of which had a material effect on the dismissal decision.

Where the letter of appeal does not provide the necessary information to allow it to be processed the Appeal Hearing Officer will write to the employee seeking clarification.

The Appeal Hearing Officer will arrange for the appeal to be heard as soon as reasonably practicable and at least 5 working days' notice will be given.

The employee will have the right to be accompanied by a work colleague or a trade union representative. The meeting may be postponed by up to 5 working days to enable the employee's chosen representative to attend.

Unless in cases of a procedurally flawed Stage 2 meeting, the appeal hearing will not constitute a full re-hearing of the case. It will only address the specific grounds of appeal set out in the letter of appeal. The Appeal Hearing Officer can refuse to consider any new evidence if they decide it is unreasonable for it to be raised for the first time at the appeal.

The Dismissing Manager and the employee will provide each other with any documents to be used by them and the names of any witnesses to be called by the third working day before the appeal hearing.

The Appeal Hearing Officer will chair the meeting, advised by a Human Resources representative.

The Appeal Hearing Officer should make their decision based on whether the evidence supports or does not support one or more of the grounds for appeal specified above. The possible outcomes of an appeal hearing are as follows:

1. Uphold the original decision
2. Allow the appeal in its entirety
3. Reduce the severity of the management action/decide on an alternative option to dismissal

Where the Appeal Hearing Officer decides to uphold the appeal in the case of procedural flaw or new evidence they will have the discretion to refer the case back for a rehearing. Where the case is referred back for a rehearing they will decide whether the case should be reheard by the same officer who originally heard the case or by a different hearing officer.

If the appeal is on the grounds of new evidence, referral to the original hearing officer will be for the consideration of the new evidence together with any of the original evidence which is relevant to the new evidence in order to reach a decision.

There is no further right of appeal.