



Managing Capability Code

May 2009

Managers' Quick Reference Guide

Purpose of Policy and Procedure

The procedure provides a framework for managing capability. Capability is concerned with an employee's inability to undertake tasks and perform to the required standard. This is different to misconduct where the employee is capable of carrying out the tasks but chooses not to. Misconduct should be addressed under the Disciplinary Policy and Procedure

Key Features

Informal or Formal Resolution: The majority of capability issues can normally be resolved informally, however, there will be occasions where there is no reasonable prospect of informal action securing an improvement and formal action must be taken. Every effort should be made to resolve issues through the normal supervisory processes before moving to the formal procedure unless the under-performance is serious and warrants formal action.

Role of the Manager: The manager's role is to implement the procedures fairly and consistently. The authority to take action varies at different management levels. (Paragraph Reference 1.7)

Role of Human Resources and Legal Services: Human Resources are available to give advice and support and will attend all meetings where dismissal is a possible outcome and appeal hearings. As a general rule where cases involve unusual circumstances managers should seek advice.

Employees Covered by the Procedure: A significant part of the workforce is covered by this procedure. Exceptions include teaching staff and non-school based staff where there is a delegated budget. (Paragraph Reference 1.5).

Right to be Represented: All employees have at right to be represented by a trade union representative or work place colleague. (Paragraph Reference 1.11)

Right of Appeal: Employees have a right of appeal against dismissal.

Timescales: Timescales are clearly prescribed in the procedure.

Deferring Meetings and Hearings: Meeting/hearings may be deferred. (Paragraph Reference 2.7). A decision should be made on the merits of each case.

Disability: When managing performance account must be taken of any requirement to implement reasonable adjustments throughout the process to ensure that employees with a disability are not disadvantaged by any of the activities or stages in the capability procedure.

Search for Alternative Employment: Consideration of suitable alternative employment may be initiated at any stage in the capability process. (Paragraph Reference 2.11)

Performance and Review meetings: These meetings must be structured and are key to the successful implementation of this procedure.

Recording meetings: A written record of all meetings and hearings must be recorded. (Paragraph Reference 2.6)

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Introduction

1.1 How to Use the Code

The Code is in four parts:

- the policy
- about the procedure
- informal action (resolution of minor under-performance issues) procedure
- formal action procedure

Managers and employees should read and be conversant with the first two parts before moving to the informal and formal procedures and their application.

Part 1 The Policy

1.1 Aims and Objectives

The council is committed to service excellence and continuous improvement delivered through a high-performing workforce. Co-ordinated recruitment, induction, appraisal and learning and development interventions are pre-requisites to effectively managing performance.

This Code provides a fair and consistent approach to addressing capability issues. All employees must perform their duties and responsibilities to the standards set by the council, department and/or manager. Conversely, managers must set and communicate performance standards, providing support and assistance to enable employees to achieve those standards. The Code provides guidance on best management practice for managing capability, and how to achieve equitable solutions to resolve issues when performance falls below the standard required. Emphasis is placed on early intervention and informal resolution to provide employees with the relevant support and or training to improve. Managers must take primary responsibility for the effective implementation of this policy across the council.

1.2 Legal Context

This Code takes account of the best practice and guidance contained in the ACAS Code of Practice on Discipline and Grievance (2009); and employment legislation including the Employment Rights Act 1996, the Employment Relations Act 1999, the Race Relations (Amendment) Act 2000, the Employment Act 2002, the Sex Discrimination Act as amended and the Disability Discrimination Act 1995. Under the last named Act, where any provision, criteria or practice applied by an employer, or any physical feature of the workplace which places a disabled person at a substantial disadvantage in comparison with persons who are not disabled, there is an obligation on employers to make reasonable adjustments to prevent an employee from being put at that disadvantage.

1.3 Adverse Impact

The council will ensure that the Code is applied fairly to all employees and does not have a negative impact in relation to the council's equality strands: race, gender, faith or belief, sexual orientation, age and disability. Managers are responsible for managing the equality impact of the Code and preventing adverse impact on any particular groups of employees wherever possible.

1.4 Contract of Employment

This Code forms part of the contract of employment between the council and its employees.

The council reserves the right to amend this Code from time to time, after such consultation with the trade unions recognised by the council for collective bargaining purposes, for any employee to whom this Code applies that it considers appropriate.

The Code can be downloaded from the council's Intranet site or obtained from Human Resources. Hard copies of this document will be provided to all council employees who do not have access to the council's Intranet.

All employees must read the Code carefully and ensure they understand the requirements it places on them.

1.5 Scope

The Code applies to all employees of the council except for:

- employees in their probationary period. Issues of under-performance during the probationary period should be handled under the council's Probationary Procedure;
- teachers, and school based non-teaching staff where the school has a delegated budget (who are covered by separate arrangements);
- temporary employees with less than 12 months continuous employment with the council. For definition of temporary employee see footnote.¹

The Council's capability arrangements also do not apply to agency workers as the council does not consider agency workers to be its employees. Any capability issues should be addressed with the employing agency.

1.6 Key Principles

The Council's Staff Competency Framework underpins the performance standards all employees need to demonstrate.

The management competencies specifically refer to managing people and require that managers provide support and regular feedback, addressing under-performance quickly and setting clear goals and targets.

This Code embodies the following key principles:

- contributing to and supporting continuous improvement and effective service delivery;
- improving performance through early informal intervention, using management tools such as regular supervision and guidance, encouragement, coaching, mentoring, and training and development, to avoid formal action whenever possible;
- providing support and guidance to managers responsible for the maintenance of the council's performance standards;
- ensuring that a fair, consistent and understanding approach is adopted for employees being managed through the formal process.

¹ A temporary employee is defined as an employee who is engaged for a period of continuous employment which has limited duration, e.g. for maternity, sickness cover or restricted funding availability. Employees will be clearly informed in the recruitment process and in the contract documentation that the employment is temporary, the estimated duration and the reason why the employment is temporary. Under a temporary contract an employee is appointed in accordance with the appropriate NJC and local terms and conditions.

1.7 Authority to Take Action

Informal	All managers with people management responsibilities.
Formal Stage 1	All managers with people management responsibilities graded PO1 and above.
Formal Stage 2	All managers with people management responsibilities. See dismissal below.
Dismissal	Director, Assistant Director or Head of Service. <i>Where the manager conducting the Stage 2 hearing is not a Head of Service or more senior manager a recommendation to dismiss will be made to the Head of Service or more senior manager.</i>
Appeals against dismissal	Director, Assistant Director or Head of Service who will be at the same level of seniority or at a higher level than the manager who took the decision to dismiss.

Managers will be expected to have successfully completed the learning and development programmes on the council's managing capability arrangements before using the Code. If a new manager has been unable to attend the training before becoming involved in a capability issue s/he should discuss with a Human Resources Adviser how to proceed. Managers joining the council who have previous people management experience will be required to attend a programme designed to give them information and advice on the council's arrangements for managing capability. If a manager has been unable to attend the training before becoming involved in a capability issue s/he should discuss with a Human Resources Adviser how to proceed.

None of the above prohibits the involvement in improving an employee's performance of specialist support, if required.

1.8 Role of Managers, Employees and Human Resources

Managers are responsible for managing capability within their teams, ensuring that any concerns about performance are addressed in a timely manner.

Managers must:

- ensure the right person is recruited for the job through the appropriate application of the council's Recruitment and Selection Policy and Procedures. ***[Link to R&S]***
- ensure all new employees receive a proper induction into the council, including attending the Corporate Induction Programme and taking part in departmental induction arrangements relevant to the job;
- handle capability issues fairly, consistently and in line with the principles of natural justice;
- deal with capability issues promptly and effectively ensuring timescales set out in the Code are met;

- set realistic and fair standards of performance;
- ensure that all employees are clear about the required performance standards;
- address capability issues informally through normal management interventions such as monthly supervision sessions;
- demonstrate how performance falls short of the required standard;
- actively encourage and support employees to reach the required level of performance through adequate training, supervision, coaching and support;
- ensure reasonable adjustments are made for staff with a disability before implementing the capability procedure where the disability is relevant to the under-performance;
- ensure employees are aware of the consequential action if they fail to meet the standards required;
- regularly feedback on individual and team progress;
- instigate formal action where informal management action has failed to improve performance;
- seek advice from a Human Resources Adviser where necessary;
- inform the Head of Service and a Human Resources Adviser at an early stage where under-performance may result in dismissal, i.e. where a case has progressed to Stage 2 of the capability procedure.

Employees have a responsibility to:

- ensure that they are familiar with and understand the Capability Code;
- fulfil their contractual responsibility to achieve and maintain a satisfactory level of performance;
- inform their manager of any concerns they may have about their ability to perform their duties for any reason, or outline training requirements that may assist them in reaching the required level of performance;
- actively take part and contribute to the appraisal process;
- co-operate with the implementation of the Capability Code.

The role of Human Resources is to:

- advise on best practice and implementation of the Managing Capability Code;
- attend Stage 2 meetings where dismissal is a possible outcome, and appeals;
- monitor application of the Managing Capability Code;
- ensure that capability action taken is consistent;
- take legal advice on behalf of managers, where appropriate.

1.9 Links to Other Policies and Procedures

Managing Alcohol, Drugs and Substance Misuse at Work Policy and Procedure

If it becomes apparent during application of the Managing Capability Code that the short-fall in performance may be related to drug, substance or alcohol dependency the council's 'Managing Alcohol, Drugs and Substance Misuse at Work' Policy and Procedure should be activated. The primary aim of the policy is to encourage employees to seek help quickly, with a view to early recovery and improved performance. A referral made under this policy and procedure will impact on how under-performance under the Capability Code will be managed in the future. Monitoring and action taken to improve performance will be supportive, taking account of the individual's dependency on alcohol, drug or other substances provided he/she demonstrates their commitment to address their health problem by co-operating with an agreed recovery plan. [\[Link to guidance\]](#)

Attendance Management Policy and Procedure

Where absences occur whilst the Capability Code is being applied, these will be addressed under the 'Attendance Management' Policy and Procedure. This may involve making a referral to the Occupational Health Service for an independent assessment of the employee's health and his/her fitness for work. Normally both procedures would be implemented concurrently. Account will be taken of any health issues and will be reflected in any action plan designed to improve the individual's performance. [\[Link to guidance\]](#)

Disability

Where any provision, criteria or practice applied by an employer or any physical feature of the workplace that places a disabled person at a substantial disadvantage in comparison with persons who are not disabled, the Disability Discrimination Act 1995 places an obligation on employers to make reasonable adjustments to prevent an employee from being put at that disadvantage. Reasonable adjustment considerations may arise when managing capability. The impact of the reasonable adjustment should be monitored as part of managing performance. Where the adjustments resolve a performance issue then no further action under this Code will be required. Only where the reasonable adjustments do not resolve the under-performance issues will action continue to be taken under the Managing Capability Code. Human Resources or the Diversity Team are available to provide advice or support on reasonable adjustments. [\[Link to guidance\]](#)

Supervision

Managing performance forms part of normal day-to-day supervision. Managers and employees are required to meet on a regular basis to discuss and address work and employee issues and concerns. The supervision sessions should be used to informally resolve performance issues under the Managing Capability Code and should be used to support any formal action taken. [\[See Performance Management Tool Kit: Supervision Meetings Best Practice Guidance\]](#).

Individual Performance and Development Scheme (IPAD)

The 'Individual Performance and Development' Scheme provides for formal review of performance which encourages two-way communication between the manager and the employee. It also provides a framework for the regular assessment of the employee's performance, potential and development needs. [\[See Performance Management Tool Kit: IPAD Scheme\]](#).

If a manager has concerns about an employee's performance action should be taken under the Capability Code. The manager should not wait for the next appraisal meeting. Action

plans developed as part of the under-performance management process will form part of the IPAD objective setting and review. [\[Link to guidance\]](#)

Disciplinary Policy and Procedure

The Disciplinary Policy and Procedure addresses issues of misconduct. A shortfall in performance due to misconduct or negligence, e.g. carelessness, failure to observe safe working practices or follow reasonable instructions, lack of application or motivation, inattention to work matters, will be dealt with under the Disciplinary Policy and Procedure. In such cases, the employee is capable of undertaking the task but knowingly fails to perform the activity or comply with the standard. The inappropriate conduct could include one error that has serious consequences or habitually neglecting duties and responsibilities.

If, when progressing a capability issue, it becomes apparent that it is an issue of misconduct rather than under-performance, the matter should be referred for action under the Disciplinary Policy and Procedure. The same manager handling the performance concerns will normally follow through with the disciplinary action. [\[Link to guidance\]](#)

Fairness at Work (FAW)

The FAW Policy and Procedure is separate from the Managing Capability Code and should not be used for capability matters. If an employee is dissatisfied with the capability process s/he may raise his/her concerns with the manager’s line manager or Human Resources, and in any event the employee has a right of appeal against dismissal under this Code. (See paragraphs 4.5 and 4.6).

A complaint registered under the FAW Policy and Procedure at the commencement of or during capability proceedings about an unrelated matter will not prevent the continuation of those proceedings. Where necessary a separate investigation will be conducted. [\[Link to guidance\]](#)

1.10 Timescales

All parties to the proceedings have an obligation to co-operate in ensuring that processes and timescales set out in this Code are followed. The only exception to this relates to situations where the outcome of a case would be prejudiced by complying with the timescales. In such circumstances the timescales may be extended, but the employee must be informed in writing and given the reasons for the extension, together with details of any steps to be taken within this period. Managers should discuss any variations to the timescale with a Human Resources Adviser and inform their manager before taking any action.

For the purpose of calculating timescales all references in this document to “working” days will be taken to mean Monday to Friday excluding Bank and Public holidays. The table below sets out the timescales that apply when dealing with under-performance.

Stages	Timescale
Informal stage	Monitoring Review Period – between 2 weeks and 6 months. Six months is the maximum review period.
Formal Stage 1	Written notification of required attendance at a capability meeting - 7 working days.
	Exchange of supporting evidence to which the manager or the employee may wish to refer - at least 3 working days in advance of meeting.

	Monitoring Review period - between 2 weeks and 3 months. Three months is the maximum review period.
	Decision taken to give further review period - between 2 weeks and 3 months. Three months is the maximum review period.
	Confirmation in writing of the outcome of the meeting by line manager - within 5 working days of completion of the meeting.
Exiting the Procedure at Formal Stage 1	Employees who exit the code at this stage will be subject to a further 12 month review period within which, action may be reinstated at Stage 1 or 2 of the Code. In such cases, a review meeting will be held with the employee to establish whether there are mitigating circumstances which may effect performance and warrant re-entry at Stage 1 rather than Stage 2. Re-entry at Stage 2 may ultimately lead to dismissal.
Formal Stage 2	Written notification of required attendance at a capability meeting - 7 working days.
	Exchange of supporting evidence to which management or the employee may wish to refer – at least 3 working days in advance of meeting.
	Monitoring review period - between 2 weeks and 3 months. Three months is the maximum review period.
Exiting the Procedure at Formal Stage 2	Employees who exit the code at this stage will be subject to a 24-month review period , within which action may be reinstated at Stage 2 of the Code and will lead to dismissal if performance does not improve.
Search for Alternative Employment	Consideration of suitable alternative employment may be initiated at any stage in the process by the manager or employee. Where dismissal is a likely outcome the council will search for suitable alternative employment both prior to and during the notice period. Any offer of alternative employment will be subject to the availability of a suitable vacancy.
Dismissal Approval Process (<i>where the Hearing Manager does not have delegated authority to dismiss</i>)	A recommendation to dismiss must be submitted in writing to the senior manager with authority to dismiss, and copied to the employee, within 5 working days of the Stage 2 managing capability meeting.
	The manager will invite the individual to a meeting, to be held within 5 working days of the receipt of the recommendation to dismiss, to consider any representations by the employee before making a decision.
	Written notification to the employee informing them of the outcome of the dismissal approval process must be issued within 5 working days of the Stage 2 meeting.

Appeals Process	Appeals must be lodged in writing within 10 working days of the date of the letter confirming the decision to dismiss.
	The appeal will be heard within 15 working days of receipt of the appeal notification or as soon as reasonably practicable thereafter. Employees will be given at least 7 working days notice of the hearing date.
	The documentation to be produced by the presenting manager and the employee at the appeal hearing must be exchanged by the relevant parties at least 3 working days before the appeal hearing date.
	Written notification of decision to be issued within 5 working days of the appeal hearing.

1.11 Right to Representation/Accompaniment

Employees have the right to advice and guidance and to be represented and/or accompanied by either:

- a trade union representative (i.e. an officer employed by a trade union or a trade union official reasonably certified by the trade union in writing as having the experience of, or having received training in, acting as a workers companion at disciplinary or grievance hearings); or
- a work colleague (a person who is a council worker) ;

but not a legal representative

- at any formal stage in this Code, and
- at an informal stage meeting where a decision to move to the Formal Action Procedure is likely to be taken due to a insufficient of improvement in performance.

Employees are encouraged to make use of this facility. It is the employee's responsibility to organise representation on the relevant date. However, to avoid difficulties arising as far as possible, employees and their representatives will be consulted on the timing of meetings/hearings.

If it is not possible for the chosen representative to attend then another representative may be selected subject to statutory provisions set out in the paragraph below for alternative dates and times being met.

Where a trade union representative or work colleague chosen by the employee to accompany him/her at a capability or appeal hearing cannot attend on the date proposed, the employee can propose an alternative time and date so long as it is reasonable and falls before the end of the period of five working days beginning with the first working day after the day proposed by the employer. One postponement on these grounds will be allowed.

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 Code

1.12 Monitoring and Review

Application of the procedure and decisions taken in relation to addressing capability issues will be monitored to ensure consistency and fairness and any unfair or unequal treatment will be addressed. Monitoring reports will be presented to corporate and departmental management teams on a quarterly basis, and the Annual Workforce Monitoring report expanded to include full equalities monitoring information.

Reviews will also be undertaken and changes and improvements to this Code may be made based on legislative changes, operational experience and best practice. Any changes to the Code will be undertaken in consultation with the recognised trade unions.

1.13 Interpretation of Code

Any disagreement between management and the employee concerning the interpretation of the Code may be referred to the Assistant Director (Human Resources) or his/her delegated representative whose decision will be final.

Part 2 About the Procedure

2.1 Managing Capability

It is essential that, prior to applying the Managing Capability Code, the nature of the reason for the under-performance is identified. This could be due to a number of reasons:

- the under-performance is due to negligence (which should be handled under the Disciplinary Policy and Procedure);
- the under-performance is due to health (this would be dealt with through the Attendance Management and, where necessary, the Managing Alcohol, Drugs and Substance Misuse at Work policies and procedures, in conjunction with this Code);
- the under-performance is due to an inability to meet the required standards (which would be dealt with under this Code).

Listed below are examples of factors which may be the cause of under-performance which should be part of the assessment process when initiating formal or informal action under the Code (the list is not exhaustive):

- lack of ability, aptitude, skill or experience;
- lack of appropriate resources or facilities;
- training provision not made available to the individual;
- inadequate performance has been left unchallenged for too long;
- no regular supervision sessions or feedback mechanisms on performance;
- difficult working relationships;
- stress either related to work or external factors;
- organisational change.

2.2 Contractual Notice

An employee who is dismissed from the council's service will normally be entitled to contractual notice or pay in lieu except where during the notice period and without good cause has not attended work or has failed to co-operate whilst at work, in which case the employee will not be paid for any period of non-attendance or lack of co-operation.

2.3 Confidentiality

Confidentiality and privacy will be maintained at all times during the managing capability process. This applies to all correspondence, reports and other documentation. Circulation of information will be that which is necessary to ensure a fair process. Unnecessary disclosure of confidential information at any stage of the procedure may lead to disciplinary action.

2.4 Records Retention

Records must be kept detailing action undertaken in relation to the Managing Capability Code including:

- the nature of the under-performance;
- the action taken and the reasons for it;
- whether an appeal was lodged, its outcome; and
- any subsequent developments.

These records should be kept on the employee's personal file in accordance with the council's Retention of Records Policy. ([Link](#))

2.5 Sending Correspondence

All correspondence with employees subject to the Managing Capability Code (including letters convening meetings/hearings, documentary evidence and decisions of hearings) should be delivered either by 'hand' on behalf of the council, or by recorded or registered post. A further copy should also be sent through the ordinary post.

2.6 Making a Record of Interviews, Meetings and Hearings

A written record of meetings and hearings must be made. It will not be a verbatim record but will accurately reflect the under-performance issues 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 his/her comments to be noted for future reference.

The record may be used at any future appeal or employment tribunal and will also be relevant in evaluating consistency of decision making across the council.

The record of the capability meeting should contain:

- a summary of the under-performance;
- an outline of the decision(s) and agreed actions;
- the reasons for the decision(s) and agreed actions;

The length and level of detail will depend on the seriousness and complexity of the under-performance issue.

Normally meetings and hearings will not be taped. However, a manager may exercise his/her discretion, in consultation with a Strategic Human Resources Manager, whether the use of taping would be beneficial. The tapes will not as matter of course be transcribed but may be used to resolve any issues/disagreements arising from the proceedings. There is no obligation on the council to provide the employee and his/her representative with a transcribed version of the tapes, however, the employee may request and be provided with a copy of the tapes. In the event of an appeal against a decision to dismiss that part of the

hearing relevant to the grounds of appeal recorded on tape will be transcribed and issued with the appeal papers.

2.7 Deferring Management Action

There may be a number of acceptable reasons to defer a meeting under this Code.

The employee is unable to attend due to ill-health

If the employee is unable to attend work due to illness whilst capability management action is being taken, a medical certificate must be submitted, stating the reasons why the employee is unable to attend. Provided a medical certificate is submitted, any planned meeting will be deferred: normally this will be for up to five working days but a longer postponement may be agreed in exceptional circumstances. Only one postponement will normally be granted.

Where a postponement is granted on health grounds, the manager will advise the employee that if s/he is unable to attend the re-arranged date, the reconvened meeting may take place in his/her absence. Where an employee does not attend the re-arranged meeting, any submissions made on behalf of the employee by his/her representative or by the employee in writing or on the telephone will be taken into consideration.

If the medical condition gives cause for concern then advice should be sought from a Human Resources Adviser and the council's Occupational Health Adviser.

The employee is unable to attend for other reasons

If the employee requests a deferment the manager can refuse the request unless there are exceptional circumstances. If the capability action is postponed for legitimate reasons the manager will advise the employee that, if s/he are unable to attend the re-arranged meeting, the meeting may take place in his/her absence. Where an employee does not attend a meeting, submissions made on behalf of the employee by his/her representative or by the employee in writing or on the telephone will be taken into consideration.

The employee does not attend and no notification is received

If the employee does not attend a meeting without prior notification, the meeting may either proceed in his/her absence or be postponed, taking into account any known facts. If the meeting is postponed the manager will advise the employee that if s/he is unable to attend the reconvened meeting, the meeting will proceed in his/her absence.

The employee's representative is unable to attend.

If an employee's representative is unable to attend on the day of the hearing, the hearing must be postponed and rearranged in accordance with provisions in paragraph 1.11. Any longer extension of the postponement will be at the discretion of the hearing manager and will depend on the circumstances of the request for a postponement. If the employee's representative is unable to attend a rearranged capability meeting, the manager may decide either to proceed in the absence of the representative or postpone the meeting taking account of the known facts.

2.8 Action Involving Trade Union Representatives

Where concerns about performance involve an employee who is an official of a recognised trade union this Code should be followed in the normal way. However, depending on the circumstances the matter should be discussed at an early stage with an official employed by

the relevant trade union after first obtaining the employee's agreement. A Human Resources Adviser 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 under this Code.

The contact details for branch secretaries and full time officials of trade unions recognised by the council can be found on the Intranet.

2.9 Qualifications and Compliance Issues

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

Before taking any formal action, the manager should (without prejudging the case) consider the impact under-performance may have on the employee's ability to continue to perform his/her duties. If the employee's continued fulfilment of his/her job would be compromised as a result of any formal action being taken under this Code, the manager must seek the advice of a Human Resources Adviser either before the meeting is held or during an adjournment.

If a statutory body, e.g. General Social Care Council, is involved (for compliance/regulated posts) serious under-performance 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 the external regulators, the case will need to be reviewed in order to assess the impact on the individual's ability to continue to do his/her job.

Where qualification and/or compliance issues may be involved the relevant Assistant Director and Human Resources Adviser must be consulted before formal action under this Code is commenced.

2.10 Swift Action

There may be occasions where an employee's level of under-performance exposes the council to significant risk if the under-performance continues and swift action is necessary. There may be other circumstances which may also warrant swift 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 Code without taking action under Stage 1. In such circumstances advice should be sought from a Human Resources Adviser before any action is taken.

An employee may be dismissed without being given a prior warning.

2.11 Alternative Employment

When managing capability the manager may consider and discuss with the employee suitable alternative employment with the council as a means of dealing with under-performance. This may include looking for jobs requiring different skills which are compatible with those possessed by the employee, or for less responsible jobs. If the manager believes

that this is an appropriate measure but the employee is reluctant to consider this option, the manager should discuss the options with a Human Resources Adviser

Where alternative employment is considered to be the most appropriate course of action by the manager and the employee, the council will make every effort to identify suitable jobs for which the employee can be considered. However, employees seeking re-deployment resulting from reorganisation, ill-health, redundancy or disability will be given priority over any employee where performance is under review.

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 **7** working days notice to consider the offer and discuss it with his/her 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 the minimum spinal column point on the new grade.

2.12 Review Meetings

Review meetings are key elements of both the informal and formal stages of the Code. They provide the opportunity to set targets and review under-performance within a structured environment.

Capability reviews will normally form part of the regular supervision meetings with on-going dialogue in between. These meetings will be used to:

- review progress against the agreed targets;
- provide feedback on performance to the employee;
- revise the targets if necessary; and
- consider any other action that may be required.

If the circumstances warrant more intensive support, the manager may consider increasing the frequency of the review meetings and introducing any other support that may be appropriate in consultation with the employee.

Where informal action leads to the employee's performance improving to the required standard, the manager will inform the employee and confirm it in writing. The employee will also be advised that the level of performance attained must be maintained. Measures will be agreed with the employee to monitor on-going performance through normal supervision arrangements.

Where early intervention and good management practice does not achieve the required improvement in performance, or the under-performance is more serious, the manager must consider whether to:

- proceed to the next stage (i.e. informal to first formal stage or first formal stage to second formal stage); or
- implement another review period.

If a decision is taken to continue with another review period there must be a clear justification for the decision and evidence to demonstrate the procedure has been applied fairly.

In the case of employees who have a disability which may affect their performance, managers must take account of the length of time needed to implement any reasonable adjustment intended to resolve a performance issue when deciding the length of the review period.

2.13 Return to Work Allowed

Employees who return to work following reinstatement on appeal against dismissal must be properly re-inducted into the work and the duties of the job.

Part 3 Informal Action Procedure

3.1 What is Informal Action and Why Use It

Informal action is usually the most appropriate way of initially addressing minor capability issues, such as problems with written work, poor communication, repetitive errors and not meeting deadlines or financial targets. It is anticipated that the majority of capability issues will be resolved informally. However, there may be occasions where there is no reasonable prospect of informal action securing an improvement in the employee's performance, in which case formal action will be taken.

Such action should be implemented by the manager within the regular 'supervision' meetings. Managing capability within this context entails two-way communication between the manager and the employee, which outlines the required performance standards and details of how the employee currently fails to meet these standards. This approach is based on encouraging the individual and is facilitated through regular support, feedback and training, as required.

Whilst informal action does not constitute formal action, it may be taken into account in any subsequent formal action which may follow.

3.2 Taking Informal Action

The informal stage will involve meetings between a manager and an employee. The aims of the meetings are to:

- identify where performance falls short of the standard;
- identify possible causes for the under-performance;
- set the standards of performance required;
- consider the type and range of support that will help the employee to achieve the required performance standards;
- identify how the performance will be monitored to track progress; and
- set a date for a further review meeting when the performance will be reviewed.

A check-list of the actions/measures that may be appropriate when managing under-performance at the informal stage is attached at [Appendix 2](#). It is important to use the check-list when putting the action plan to improve performance in place, although the list is not exhaustive and there may be other management activities that will be relevant to the particular circumstances of a case.

An employee must be advised that they can be represented at any informal meeting where a decision to move to Stage 1 is a possible outcome.

3.3 Documentation and Future Action

There are two possible outcomes which may result from the informal action procedure.

1. The performance improves 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 and the consequences of not doing so.
2. There has been no or little improvement in performance and a decision is taken to proceed to Stage 1.

A manager will make a judgement on how long to continue with the informal approach before moving to the formal procedure. Informal action will normally be kept under review for a period **of up to six months**. Six months is the maximum period over which performance may be monitored and reviewed. A shorter period dependent on the circumstances may be justified. However, if within the six-month period it becomes clear that informal action will not achieve the desired outcome then the manager should take an early decision to move to the formal procedure.

The manager should produce written documentation of the action taken including:

- records of any meeting held with the employee which details the standard of performance required, how these standards are not being met, and action taken to address the gap in performance;
- completed supervision forms and notes that detail the under-performance (see the model Supervision Recording Sheet in the Performance Toolkit, which should be used in conjunction with other appropriate documentation for recording informal action);
- all correspondence referring to the capability issue and agreed actions to improve performance, including management support, frequency of review meetings (supervision sessions) in relation to the targets set and the target date for improvement.

3.4 Right of Appeal

There is no right of appeal against informal action.

Part 4 Formal Action Procedure

4.1 Stage 1 Performance Meeting

A meeting between the employee and the manager will be held as the first step in the formal procedure. The manager will write to the employee setting out:

- his/her concerns about performance which has triggered the need to convene a Stage 1 meeting;
- the requirement to attend a performance meeting, giving **7** working days notice;
- the date and time of the meeting;
- the right to be represented (see paragraph 1.11);
- the requirement for the manager and the employee to provide any supporting evidence which they may wish to rely upon at least **3** working days before the meeting, to provide both sides with an opportunity to consider the documentation.

[See Performance Management Toolkit: Model Letter ?]

Consideration will be given to action taken under the Individual Performance Development Scheme (IPAD) (see paragraph 1.9).

The aims of the meeting are to:

- specify where performance falls short of the standard, including examples;
- set targets for improvement;
- identify measures against which performance will be assessed;
- put in place an action plan setting out the support to be provided to assist the individual to achieve the required performance standard;
- warn the employee of the consequences if his/her performance does not improve;
- set up regular monitoring arrangements to track progress; and
- set a date for a further meeting to review progress against the performance targets set for improvement. (See the table – Review Periods at paragraph 1.10). The length of the review period will be dependent on the nature of the job up to a maximum of **3** months.

When determining the targets, action plan and monitoring arrangements, consideration will be given to the action taken informally.

A check-list of the activities that may be appropriate when managing capability at the formal stages is attached at Appendix 3. This list is not exhaustive and there may be other management activities that will be relevant to the particular circumstances of a case. It is important to use the check list when putting in place the action plan to improve performance.

The check list in many ways mirrors best management practice at the informal stage. The overriding differences are:

- a more structured approach is required under the Stage 1 procedure; and

- the use of written warnings, emphasising that the individual's employment may be at risk where performance does not improve, alerting the employee to the likely consequences.

4.2 Stage 1 Outcomes

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 and the consequences of not doing so.
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 between **2 weeks and 3 months** depending upon the nature of the job.
3. The employee's performance has not met the standard and a decision is taken to proceed to Stage 2.

If it is clear during the review period that the employee's performance will not reach the required standard by the end of the period then it is not necessary to wait until the review period is completed before proceeding to Stage 2.

Where a decision is taken to extend the review period 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.

Where the required level of improvement has been achieved performance will be monitored, and should it not be sustained in the following **12 month period**, action may be reinstated at the Stage 2 of the Code which could ultimately lead to dismissal. In such cases a review meeting will be held with the employee to establish whether there are mitigating circumstances which may effect performance and warrant re-entry at Stage 1 rather than Stage 2.

The line manager will confirm the outcome of the meeting in writing within **5** working days of the verbal notification of the decision.

There is no right of appeal against a Stage 1 outcome. However, if the employee has concerns about the application of the process h/she may raise these concerns with the manager's line manager or with Human Resources.

[See Performance Management Toolkit: Model Letter ?]

4.3 Stage 2 Performance Meeting

The meeting will be conducted by the manager. Where the potential outcome of the meeting may be dismissal or (where the manager does not have the authority to dismiss), a recommendation to dismiss – (*see paragraph 4.4 below*) a Human Resources Adviser will attend the meeting. The manager will give the employee **7** working days notice of the meeting.

The written notification will set out:

- the requirement to attend a Stage 2 performance meeting;

- the date and time of the meeting;
- the status of the meeting and the possible consequences could include dismissal;
- the manager's continuing concerns about under-performance which has triggered the need to convene a Stage 2 meeting;
- the employee's right to be represented (see paragraph 1.11).

[See Performance Management Toolkit: Model Letter ?]

Any supporting evidence to which management or the employee may wish to rely on at the meeting should be provided to the other party and to the manager conducting the meeting at least **3** working days before the meeting. This will provide an opportunity for all parties to consider the documentation.

The aims of the meeting are to:

- review performance and the action taken to achieve the required improvement;
- where improvement has been unacceptable consider whether to dismiss or recommend dismissal;
- where it is decided the employee has demonstrated that with further support s/he is likely to achieve the required level of improvement, review and as appropriate revise, the targets and action plan designed to support the required improvement in performance;
- if applicable, warn the employee of the consequences of a failure to achieve the required performance standards;
- monitor progress to support a formal review and assessment at the end of the review period;
- if applicable, set a date for a formal review meeting;

The check-list of activities that may be appropriate when managing capability at Stage 1 (see Appendix 3) is equally relevant at a Stage 2 meeting. It is important to use the check list when putting in place the action plan to improve performance. However, the list is not exhaustive and there may be other management activities that will be relevant to the particular circumstances of a case.

At this stage it is essential the employee is warned that if performance does not improve s/he is likely to be dismissed.

4.4 Stage 2 Outcomes

There are four possible outcomes.

On completion of a Stage 2 meeting:

1. The employee's performance has not met the required standard and s/he has not demonstrated that s/he is likely to achieve the desired improvement within a reasonable period of time and a decision is taken to dismiss or to recommend dismissal.

At the end of a Stage 2 review period:

2. Performance has improved to the required standard and no further action is required. The employee will be informed of the need to sustain the level of improvement and the consequences of not doing so.
3. The required standard has not been reached. A decision may be taken to further extend the review period, for between **2 weeks-3 months** depending upon the nature of the job, where there is evidence to show that a further review period will lead to the required improvement. The employee will be warned that failure to reach the required standard will lead to dismissal.
4. The employee's performance has not met the required standard and there is no prospect of the standard being met. The manager will take a decision to dismiss or recommend dismissal.

The manager will confirm the outcome of the meeting in writing within **5** working days of the verbal notification of the decision.

[See Performance Management Toolkit: Model Letter ?]

Where the required level of improvement is achieved the employee's performance will be monitored and should it not be sustained in the following **24 month period**, action may be reinstated at the Stage 2 of the Code which could ultimately lead to dismissal.

4.5 Dismissal Approval Process

Where the manager does not have the delegated authority to dismiss, s/he will set out in writing details as to why performance does not meet the required standard, the actions taken to improve performance, and the justification for the recommendation to dismiss. This will be given to a Senior Manager (Director, Assistant Director or Head of Service) with delegated authority to dismiss and the employee within 5 working days of the last review meeting. The Senior Manager will meet with the employee and the manager within 5 working days of receipt of the case briefing paper. The employee will be given the opportunity to make representations in writing before the meeting (which should be provided to the manager and senior manager no later than 2 working days prior to this meeting) and orally at the meeting.

At the end of the meeting the Senior Manager will consider the recommendation and representations and decide either to:

- confirm the recommendation to dismiss, or
- refer the case back to the manager for further action.

The employee will be invited back to the meeting and will be given the decision.

The decision will be confirmed in writing within **5** working days of the verbal notification of the decision. The employee may be represented at this meeting.

Where the senior manager with the authority to dismiss, confirms a recommendation to dismiss s/he will be the presenting manager for the purpose of the appeal procedure.

[See Performance Management Toolkit: Model Letter ?]

4.6 Right of Appeal

All employees have a right to appeal against dismissal. Appeals against dismissal on grounds of capability will be heard by a Director, Assistant Director or Head of Service,

subject to the Appeal Hearing Manager being at the same level as, or more senior to, the manager who took the decision to dismiss. The Appeal Hearing Manager will have had no previous involvement in the case. Where a Director has taken the decision to dismiss the employee, the appeal will be considered by a Director from another department.

An appeal lodged against dismissal does not require the employee to be reinstated pending appeal.

Appeal submissions must be based on one or more of the following grounds.

1. **Procedure** - failure to follow the correct procedure had a material effect on the decision to dismiss.
2. **The facts of the case** - the manager who took the decision to dismiss came to a conclusion on a material point of fact, which no reasonable person could have reached.
3. **Sanction** – the decision to opt for dismissal rather than an alternative option was one that would not have been reached by any reasonable person.
4. **New evidence** is available that could not have reasonably been raised at the Stage 2 performance meeting and the absence of which had a material effect on the decision.

Appeals will not be allowed on any other grounds.

Registering an Appeal

Appeals must be lodged within **10** working days of the date of the letter informing the employee of the outcome of the Stage 2 performance meeting. The appeal should be submitted to the manager who took the decision either using the Appeal Registration form which can be obtained from the Intranet, Human Resources, or the local offices of the trade union or providing in writing the information sought by the form. [*see Performance Management Toolkit: Model Appeals Registration Form*]. The manager will copy the appeal to the departmental Strategic Human Resources Manager. The appeal notification must set out clearly:

- the grounds for the appeal, i.e. one or more of those four listed in the previous paragraph;
- the detailed basis, as far as possible, for each ground of appeal to be relied on;
- in the case of new evidence, the evidence which must be included when lodging the appeal.

Where appeal does not provide the necessary information to allow it to be processed the Strategic Human Resources Manager will write to the employee seeking clarification. This may extend the timescales for hearing an appeal.

Timescales

Appeals will be heard as far as reasonably practicable within 15 working days of receipt of the appeal, or as soon as reasonably practicable thereafter. The Appeal Hearing Manager will write to the employee (and where necessary his/her representative) giving at least 7 working days notice of:

- the date, time and place of the appeal hearing;

- details of the person presenting the management case;
- confirmation of his/her right to attend and be represented at the appeal
- the requirement to provide to the Appeal Hearing Manager and presenting manager any documentation to be relied on and the names of any witnesses it is proposed to call at least 3 working days prior to the hearing.

[See Performance Management Toolkit: Model Letter ?]

The Appeal Hearing Manager, in consultation with a Human Resources Adviser where appropriate, will arrange for the employee to receive any documentation to be relied upon by management at the appeal hearing, including the summary record of the Stage 2 meeting at which the decision to dismiss was taken and names of any witnesses to be called, at least 3 working days before the appeal hearing.

Provided the employee has been given the appropriate notice of the date of the appeal hearing, the appeal may be considered on the basis of the available evidence in the absence of the individual subject to the rules on postponement of meetings *[see paragraphs 1.11 and 2.7]*.

4.7 Appeal Hearing

The appeal hearing will not be a full rehearing of the issues, but will only address the specific grounds of appeal set out in the employee's letter of appeal.

The manager who took the decision to dismiss will normally present the case to the Appeal Hearing Manager. Where appropriate the manager of the employee will be present to give evidence and respond to questions.

The hearing will be conducted in accordance with arrangements set out in Appendix 4 although the Appeal Hearing Manager and Human Resources Adviser may vary all or part of the procedure if appropriate. The Appeal Hearing Manager will ensure that the hearing is conducted efficiently including the time taken to hear the case and the presentation of evidence by the parties including calling witnesses.

Outcomes

The possible outcomes of an appeal hearing are as follows.

1. Uphold the original decision.
2. Allow the appeal entirely.
3. Reduce the severity of the management action.

Where the appeal is allowed the employee will be reinstated to preserve continuity of employment.

There is no further right of appeal.

Appeal Upheld on Grounds of New Evidence or Procedure

Where the Appeal Hearing Manager decides to uphold the appeal on the grounds of procedure or new evidence, s/he will have the discretion to either:

- refer the case back to the original hearing manager
- refer the case back to a new hearing manager
- hear the case him/herself.

If the appeal is on grounds of new evidence referral to any of the managers specified above 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.

Where the Appeal Hearing Manager rehears a case him/herself, s/he should adjourn the appeal hearing if further witnesses/evidence need to be called/produced in order to ensure s/he has all the necessary evidence to make a decision on the case.

Notification of Decision

The decision will be given verbally on the day of the hearing, unless it is not practical to do so. In all cases the decision of the appeal will be confirmed in writing within **5** working days of the date of the hearing [*See Performance Management Toolkit: Model Letter ?*].

Pay after Effective Date of Termination

Where an appeal against dismissal is upheld payment of pay lost as a result of the dismissal will be made for any period after the effective date of dismissal until reinstatement.

4.8 Return to Work Allowed

See *paragraph 2.14* above on return to work following a successful appeal against dismissal.

Managing Capability Procedure for Temporary Employees

Where capability issues arise which involve temporary employees with less than **12** months continuous service with the council the procedure set out below will apply. Where the circumstances are not clear advice should be sought from a Human Resources Adviser before action is taken.

The employee's manager will take action under the Code. The processes for the Informal Stage, Stage 1 and 2 managing capability and review meetings set out in the body of the Code will be followed in all respects with the exception of the review period, which will normally be between **2-6** weeks. The following factors will be taken into account in deciding the viability of continuing the contract:

- the complexity of the job ;
- the gap in performance;
- the scope for improvement; and
- the length of the contract remaining.

Where a meeting is convened involving the potential dismissal of the employee, the employee will:

- be given **3** working days notice of the meeting;
- have the right to be represented [see Section 1.11];
- be afforded the opportunity to comment on his/her performance, present evidence and submit mitigation;
- receive any documentation to be relied upon at the hearing and the names of any witnesses to be called at least **3** working days before the meeting.

A Human Resources Adviser will attend the meeting to advise the manager.

Where the manager concludes that the employee should be dismissed, but does not have the delegated authority to dismiss, a recommendation will be made to the Head of Service.

An employee may be dismissed without being given a prior warning.

The employee will have a right of appeal to another Head of Service or Assistant Director.

Informal Capability Meeting Guidelines

Some or all of the activities listed below will be relevant to managers when holding performance meetings. The activities are based on best management practice. Managers should:

- bring to the attention of the employee concerns about performance illustrating those concerns with specific examples;
- explain how performance falls short of the required standard;
- give the employee the opportunity to explain any reasons for the lack of performance;
- consider any extenuating circumstances that may impact on the employee's ability to perform;
- clarify the standards of performance required;
- put in place an action plan tailored to meet the employee's needs which should include supervision arrangements, review meetings and other support that will improve performance;
- set clear and reasonable targets and specify how performance will be measured. The targets should be based on SMART (specific, measurable, achievable, realistic, time-bound) objectives;
- identify over what time period, between 2 weeks and 3 months performance is expected to improve. The review period will vary depending on the complexity of the role and the need to make an informed assessment of the employee's performance against the performance standards required;
- set an end review date;
- conduct interim review meetings (there should normally be at least two meetings to provide the employee with an indication of progress made against targets). Progress should be confirmed in writing;
- consider any temporary adjustment to normal duties to aid improvement;
- consider what support, if any, can be given if under-performance is due to a personal or domestic difficulty. This may include arranging access to counselling services through Occupational Health or Lifestyle Action Counselling services. It must be made clear to the employee that while reasonable assistance will be given the required improvement in performance must be achieved;
- take account of an employee's disability, which may be covered by the Disability Discrimination Act 1995. All reasonable steps will be taken to make adjustments and provide appropriate aids and adaptations. Specialist advice must be sought where required;
- explain the consequences of not achieving the required performance standard within the timescales set. Where the manager decides that failure to improve may trigger use of the formal procedure at the end of the improvement period this will be made clear to the

employee, (The employee may be represented at this review meeting). See paragraph 1.11;

- keep full and accurate records of meetings and action taken. The employee will be given a copy of the record.

Formal Capability Meeting Guidelines

Some or all of the activities listed below will be relevant to managers when holding formal performance meetings. The activities are based on best management practice. Managers should:

- bring to the attention of the employee concerns about performance illustrating those concerns with specific examples;
- explain how it falls short of the required standard ;
- review any action taken at the informal stage;
- give the employee the opportunity to explain any reasons for the lack of performance;
- consider any extenuating circumstances that may impact on the employee's ability to perform;
- clarify the standards of performance required;
- develop an action plan including training, supervision arrangements, review meetings and other support that will improve performance tailored to meet the employees' needs;
- set clear and reasonable targets and specify how performance will be measured. The targets should be based on SMART (specific, measurable, achievable, realistic, time-bound) objectives;
- identify over what time period, between 2 weeks and 3 months performance is expected to improve. The review period will vary depending on the complexity of the role and the need to make an informed assessment of the employee's performance against the performance standards required;
- conduct interim review meetings (there should be at least two meetings to provide the employee with an indication of progress made against targets). Progress should be confirmed in writing. Between review meetings there should be an ongoing dialogue between the manager and the employee;
- consider any temporary adjustment to normal duties to aid improvement;
- consider what support if any can be given if the under-performance is due to a personal or domestic difficulty. This may include arranging access to counselling services through Occupational Health or Lifestyle Action Counselling services. It must be made clear to the employee that while reasonable assistance will be given, standards for improved performance must be met;
- take account of an employee's disability, which may be covered by the Disability Discrimination Act. All reasonable steps to make adjustments and provide appropriate aids and adaptations should be taken. Specialist advice must be sought where required;
- explain the consequences of not achieving the required standard within the timescales set;

- issue warnings where appropriate. An employee will be given a written warning (stating that his/her employment is at risk) and an opportunity to improve before a decision to dismiss on grounds of capability is taken;
- keep full and accurate records of meetings and action taken. The employee will be given a copy of the record.

Procedure at Capability Appeal Hearings

Procedure

The Appeal Hearing Manager will introduce all parties, state the purpose of the appeal meeting and outline the procedure to be followed at the hearing.

Case for the Employee

- The employee (or his/her representative) will explain the grounds of appeal in detail. Any documentary evidence should be presented along with evidence provided by witnesses. Any witnesses will withdraw after giving evidence and answering any questions put to them.
- The Presenting Manager may question the employee and any witnesses.
- The employee (or his/her representative) can re-examine employee side witnesses.

Managers Response

- The Presenting Manager will present his/her response to the grounds of appeal and present any documentary evidence and witnesses that he/she wishes to produce. Any witnesses will withdraw after giving evidence and answering any questions put to them
- The employee (or his/her representative) may question the Presenting Manager and any witnesses.
- The Presenting Manager can re-examine management side witnesses.

Panel or Hearing Manager

- The Appeal Hearing Manager and Human Resources Adviser may ask questions or seek clarification at any appropriate time during the hearing. The Appeal Hearing Manager may:
 - stop and/or redirect any participant if at any time s/he believes that witnesses testimony or evidence being produced is irrelevant to the matter under consideration;
 - call for any additional information/ evidence to be provided, and/or witnesses to attend if deemed necessary to establish the facts;
 - adjourn the hearing where appropriate. The parties will be given reasonable notice of the reconvening of the hearing.

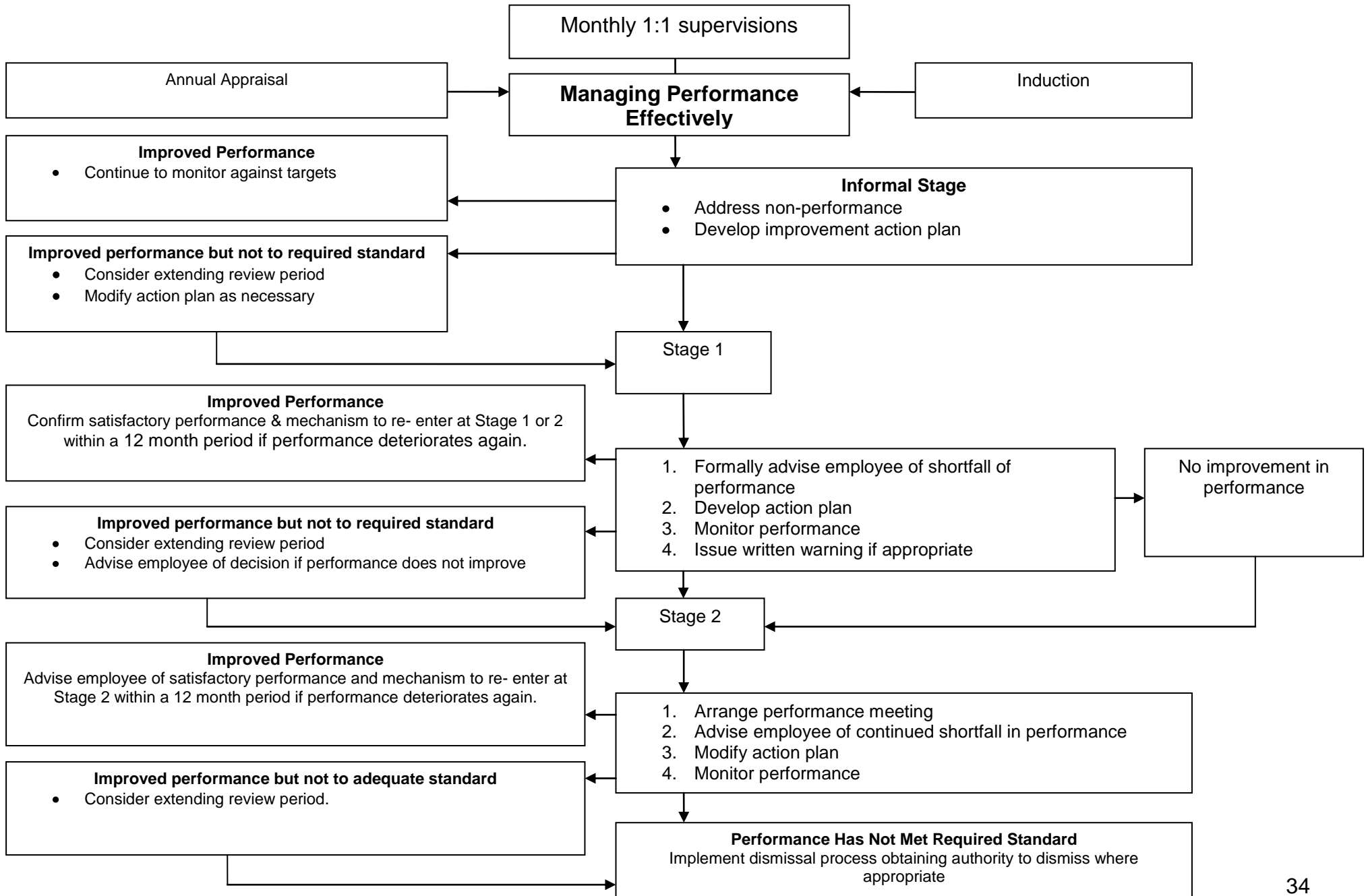
Closing Statements

- The Presenting Manager, followed by the employee (or his/her representative) may make final statements in summary to the Appeal Hearing Manager without introducing any new material.

Decision

- The Appeal Hearing Manager together with any adviser will consider the case in private and may recall the employee and their representative and the presenting officer to clarify points on evidence already given. If recall is necessary both parties will return.
- The Appeal Hearing Manager will give their decision personally if practical to do so. In any case the decision will be put in writing within five working days of conclusion of the hearing.

Appendix 5 Flow Chart – Taking Action at a Glance



Appendix 6 Flow Chart – Appeals at a Glance

