



**Shropshire, Telford  
and Wrekin**  
Clinical Commissioning Group

# Performance Management Policy

<b>Author(s) (name and post):</b>	MLCSU HR Team
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The formally approved version of this document is that held on the NHS Shropshire, Telford and Wrekin CCG website: [www.shropshiretelfordandwrekinccg.nhs.uk](http://www.shropshiretelfordandwrekinccg.nhs.uk)

Printed copies or those saved electronically must be checked to ensure they match the current online version.

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## **1 INTRODUCTION**

The Clinical Commissioning Group (the CCG) is committed to delivering a high quality service and therefore recognises the importance of managing unsatisfactory performance in a positive and supportive manner.

In managing unsatisfactory performance it is important to differentiate between unsatisfactory performance due to a lack of ability, skill, knowledge, experience or aptitude, ill-health/disability and unsatisfactory performance due to conduct or negligence.

Where ill health/disability is the reason for unsatisfactory work performance, the CCG Attendance Management Policy should be used.

Unsatisfactory performance due to conduct or negligence, where the employee is capable of carrying out their role but their performance is inadequate due to lack of attention, motivation, or misconduct the CCG Disciplinary Policy should be used.

This policy will be applied equally to all staff covered by the policy and in accordance with the CCG Equality and Diversity Policy.

## **2 SCOPE**

This policy applies to all staff employed by the CCG with the exception of Medical and Dental Staff. Capability issues for Medical and Dental staff should be addressed in line with Maintaining High Professional Standards in the Modern NHS Framework, December 2003.

This policy does not cover the following:

- Poor performance due to ill-health (Attendance Management Policy)
- Poor performance as defined in the Disciplinary Policy

## **3 POLICY STATEMENT**

This policy has been developed to provide a framework which will enable managers to identify and address issues of unsatisfactory performance in a fair and consistent manner and to enable the employee to reach the required standard of performance.

The CCG will identify constructive action which can be taken to resolve capability problems and through this supportive action enable employees to reach an acceptable standard of work, where possible

This policy will provide a fair and consistent procedure leading to redeployment or dismissal of employment where remedial action has been ineffective

## **4 RESPONSIBILITIES**

### **4.1 Responsibility of the CCG**

The responsibility of the provision of an agreed Performance Management Policy and Procedure lies initially with the CCG.

The CCG will ensure through the management structure that staff are appropriately trained for the positions they hold.

### **4.2 Responsibility of Human Resources**

To provide training, advice and support to managers/supervisors dealing with matters of unsatisfactory performance

To provide advice/support to an employee whose performance is giving cause for concern.

To provide advice and support at all stages of the formal procedure

### **4.3 Responsibility of Managers**

To ensure that they are aware of the policy and how to begin to resolve matters of poor performance in a fair and consistent manner

To ensure that all employees are made aware of this policy

To ensure that the standards of performance expected of the employee is fully explained so they know what is expected of them.

To ensure that all employees receive performance reviews.

Where it is identified that an employee is not performing to the required standard, to agree measurable objectives with the employee.

#### **4.4 Responsibility of Employees**

Employees must inform their manager and seek support should they feel there are certain competencies within their job that they are not fulfilling.

Where it has been identified that an employee is not performing to the required level it is their responsibility to agree measurable objectives with their manager.

Employees must participate in performance reviews with their manager.

Employees are responsible to continuously develop skills to achieve their maximum potential and, where appropriate, participate in any training or support identified as necessary for satisfactory performance of the role.

### **5 SETTING STANDARDS**

On commencement of employment the standards of performance expected of the employee should be fully explained so they know what is expected of them.

This should include:-

- Clear job descriptions, person specifications
- Careful monitoring of workplace induction
- Understanding of CCG corporate objectives and organisational values
- Professional codes of conduct/practice
- Regular discussions between supervisors/managers and employees to ensure that standards are being accurately communicated and maintained.

### **6 FACTORS THAT COULD CAUSE POOR PERFORMANCE**

The following are examples and are not intended as an exhaustive list:

#### **Inadequate Selection Methods**

When filling a vacancy it is important to ensure that the successful candidate has the ability to carry out the duties of the post. It is therefore important to follow the correct selection procedures as stated in the Recruitment & Selection Policy.

#### **Inadequate Training**

This could occur, when a Manager fails to provide adequate induction or ongoing training as required. It could also occur when an employee transfers to another post, and often is not trained to carry out the duties of that post. Particular care is required for employees who lack

experience of working life and for disabled employees or employees who become disabled during their employment.

### **Working Conditions**

The environment in which an individual carries out their duties may be responsible, wholly or in part for an unsatisfactory level of performance.

### **Lack of Understanding of Job Role**

Whilst an employee may otherwise be competent, they may fail to fulfil the requirements of the job, if these have not been properly communicated to them.

### **Work Standards**

The standards required of employees should be appropriate and relevant to the post.

### **Relationships with Colleagues**

Difficult relationships with other colleagues could have a detrimental effect on performance.

### **Domestic Circumstances**

Factors not directly concerned with work may never the less have a detrimental effect on performance.

### **Health Problems/Alcohol & Substance Abuse**

This can cause inadequate performance and should be dealt with in the CCG Policies specifically dealing with these circumstances, e.g. Attendance Management Policy and Alcohol & Substance Misuse Policy

### **Capability**

The employee may not possess the necessary competence and may not be re-trainable

### **Conduct**

Wilful refusal of a reasonable management instruction or negligence. These should be regarded as misconduct and be dealt with under the CCG Disciplinary Policy.

## **7 SUPPORTING STAFF WITH DISABILITIES**

The Equality Act 2010 provides that employers have a statutory requirement to give consideration to making a reasonable adjustment to any aspect of work arrangements, or of the premises which have a substantially disadvantageous effect on the disabled person's performance.

Examples of Reasonable Adjustments:

- Make adjustments to premises
- Allocate some of the disabled person's duties to another person
- Transfer to fill an existing vacancy
- Alter working hours
- Assign to a different place of work
- Allow to be absent during working hours for rehabilitation, assessment or treatment
- Arrange for employee to receive training/retraining
- Acquire or modify equipment

While disability is in no way routinely associated with performance problems, managers must consider the possibility that under-performance is the result of a disability. If this is the case, there is a statutory duty to make reasonable adjustments to the working arrangements to help reduce the disadvantage the staff member might otherwise experience. For example, it may be reasonable to provide specialist equipment to assist the staff member or to re-organise work allocation within a team.

Should the manager believe that the underperformance is associated with a suspected disability, they must refer the member of staff to Occupational Health as soon as possible for further support and guidance.

## **8 PERFORMANCE APPRAISAL PROCESS**

The appraisal process is a system for regularly reviewing and recording the performance, potential and development needs of an employee. The appraisal will ensure that employees are clear about what is expected of them and how they will be supported. The process is two-way and provides an opportunity to help identify and reveal problems which may be restricting progress and causing poor work performance.

It is a continuous process and not limited to a formal review once a year. It is essential where work performance problems arise they are addressed at the time, rather than waiting for the annual review.

## **9 PERSONAL DEVELOPMENT**

The key to longer-term improvement in performance is personal development.

The performance appraisal process identifies these needs but Managers must formalise and agree a development plan, which may include formal and/or informal development activities.



The formal stages of this process will be considered during the personal development review process and may impact on incremental pay progression.

## **10 POLICY IN PRACTICE: PROCEDURE**

The following procedure is intended as a framework to ensure consistent and fair treatment for all staff.

### **10.1 Informal Procedure (Monitoring, Coaching, Counselling)**

Most matters of unsatisfactory performance can be resolved through a combination of monitoring, coaching and counselling. The initial counselling will not constitute formal action under the capability procedure however the employee should be fully aware that counselling is taking place and clear about the nature of the perceived shortfall in their performance.

Where a shortfall in an employee's performance is identified an initial meeting should be arranged between the supervisor/manager and the employee. The discussions should include:

- a clear explanation of the area/s of weakness causing concern
- identification of any underlying causes
- a clear statement of the standards being set
- timescales for the achievement of the standards
- an explanation of the consequences of failure to achieve standards
- encouragement and assistance to improve
- date for review

Particular attention should be given to the provision of constructive support e.g:

- adequate training
- additional supervision
- coaching or appropriate intervention

Where new tasks are being introduced and are causing difficulties, particular attention should be paid to further training and development needs.

Managers should keep records of any occasions when discussions have taken place, of all the issues raised, agreed actions and timescales and provide a copy for the employee.

During the period of time given to achieve the required level of performance it is important to agree regular reviews to keep the employee informed of their progress.

This informal process must be followed at least once before invoking the formal Capability Procedure.

## **10.2 Formal Procedure**

Where after reasonable opportunity for improvement in line with the informal procedure, performance remains below the required standards, the manager will consider formal action. The employee should be informed of the managers continued concern. Example letters for each stage of the process below can be found in the appendices.

### **Stage 1**

- The manager will write to the employee, identifying the area/s of weakness causing concern, giving reasonable notice of a formal capability meeting in the presence of a Human Resources Representative. This should notify the employee of their right to be accompanied at the meeting.
- At the meeting the manager identifies the area/s of weakness causing concern.
- At the meeting the employee will have the opportunity to state their views and explain any mitigating circumstances.
- The reasons for the shortfall are explored and any remedial action to be taken is identified and an action plan is agreed by both parties that details the improvements required, the targets and timescales, together with a review date.
- The plan should be monitored in line with the timescales agreed (ranging from 1-3 months but not normally exceeding 3 months) However timescales may be longer or shorter depending on the nature of the employees duties.
- A written record of the meeting will be kept and given to the employee.
- It should not be assumed that the first formal meeting will automatically result in the employee being issued with a 'notification of unsatisfactory performance'.
- Any action taken will be confirmed to the employee within ten working days, setting out the nature of the unsatisfactory performance, any steps necessary to remedy the situation and the timescale for review. If appropriate the letter must state that a 'first notification of unsatisfactory performance' has been issued and describe the likely consequence of a failure to improve performance by the review date.
- The written record will remain on the employees file for 12 months after which it will be removed provided the employee reaches the level of performance required by the review date.

- Any reoccurrence of poor performance during the 12 months, which becomes apparent following monitoring, coaching, counselling, may result in further formal action.
- At the end of the review period a formal capability review meeting will be arranged between the manager and the employee, in the presence of a Human Resources Representative. The employee will be notified of his/her right to be accompanied at this meeting.
- Where the employee has reached the required levels of performance they should be informed that their current performance has reached the required standard. Support and encouragement should continue to be offered.
- If the employee has failed to reach the required levels of performance within the agreed timescales then the manager should move to stage 2.

## **Stage 2**

If the employee has failed to reach the required levels of performance the employee will be invited to attend a formal capability meeting which will be chaired by the manager who is the next level above the direct line manager (where possible)

- The manager will write to the employee, identifying the area/s of weakness that are continuing to cause concern, giving reasonable notice of a formal capability hearing in the presence of a Human Resources Representative. This should notify the employee of their right to be accompanied at the meeting.
- At the meeting the employee will have the opportunity to state their views and explain any mitigating circumstances
- The reasons for the shortfall are explored and any remedial action to be taken by the employee is identified
- The manager will consider whether further support and training should be provided.
- The manager will discuss with the employee the possibility of:
  - ~ revised duties/hours of work (if available)
  - ~ suitable alternative employment (if available)
  - ~ work at a lower grade for which they are competent (by agreement)
- The CCG is not obliged to create an alternative post. If it is agreed that the employee is to move into a post that attracts a lower salary, protection of pay and conditions of service will not apply.
- If it is considered that the level of performance is still unsatisfactory the manager will

issue a 'final notification of unsatisfactory performance'

- A review date will be set to assess whether or not the required improvement in performance has taken place within 1 - 3 months depending on the circumstances and availability of training.
- Any action taken will be confirmed to the employee within ten working days, setting out the nature of the unsatisfactory performance, any steps necessary to remedy the situation and the timescale for review. If appropriate the letter must state that a 'final notification of unsatisfactory performance' has been issued and describe the likely consequence of a failure to improve performance by the review date.
- If the employee is aggrieved by the issuing of the 'final notification of unsatisfactory performance' they may raise the matter through the CCG Grievance Procedure.
- If the employee has failed to reach the required levels of performance within the agreed timescales then the manager should move to stage 3.

### **Stage 3**

If the employee does not make satisfactory progress by the review date they will be invited to attend a formal capability hearing to consider the continued employment of the employee.

- At this stage a panel consisting of a CCG Manager who has not previously been involved in the process with delegated authority and Human Resources Representative shall be convened.
- The employee will be notified of the hearing in writing. The letter will detail the purpose of the hearing; identify the area/s of poor performance and the possible outcome.
- The employee will be notified of their right to be accompanied at the meeting.
- In addition the employee should be advised in the letter that the manager responsible for monitoring their work performance will attend to give an account of the review process followed and presenting any relevant documentation. Copies should be provided to the employee, prior to the meeting.
- The employee should be advised that they will have the opportunity to present any factors in mitigation.
- The panel will hear from the manager responsible for monitoring their work performance first. The employee will then have an opportunity to put forward any factors in mitigation. The panel will then adjourn to make their decision.
- If no exceptional circumstances are put forward to explain the work performance, the

panel should consider whether the employee's employment should be dismissed on the grounds of capability.

- If there is an opportunity at this stage which would allow the employee to transfer to an alternative post the panel may wish to consider offering this as an alternative to dismissal on the grounds of capability. The employee should be placed on the redeployment register for a period of 12 weeks.
- The CCG are not obliged to create an alternative post. If it is agreed that the employee is to move into a post that attracts a lower salary, protection of pay and conditions of service will not apply.
- If no alternative post is to be offered or the employee refuses any offer of alternative employment, then the employee will be advised that their employment will be dismissed on the grounds of capability.
- The decision of the panel will be confirmed to the employee, in writing, together with the reasons for the dismissal and advising them of their right to appeal against the decision, within ten working days.
- The employee will be advised that they have ten working days from the date of the dismissal letter to appeal against the decision. The appeal must be lodged, in writing, to the Clinical Accountable Officer.

### **10.3 Right to be Accompanied**

Employees have the right to be accompanied at any stage of the Formal Procedure by either an accredited Staff Representative(s) or full-time official(s) of a recognised staff organisation, or by a Fellow Worker who must be an employee of the CCG. Where reference is made in the procedure to an "accredited Staff Representative" this should also be taken to mean full-time official as appropriate.

However it would not normally be reasonable for employees to insist on being accompanied by a companion whose presence would prejudice the hearing nor would it be reasonable for an employee to ask to be accompanied by a companion from a remote geographical location if someone suitable and willing was available on site.

The companion should be allowed to address the hearing to present the employee's case, respond on their behalf to any views expressed at the hearing and confer with them during the hearing. The companion does not however have the right to answer questions on the employee's behalf, address the hearing if the employee does not wish it, or prevent the employee from explaining their case.

If an employee's companion is unavailable, it is the responsibility of the employee, so long as it is deemed reasonable to suggest another date which is not more than 5 working days after the original date of the Hearing or Appeal Hearing.

Employees have no right under this procedure to be accompanied by anyone else (e.g. a spouse, partner, other family member, or legal representative) other than those persons previously referred to.

#### **10.4 Serious Incompetence / Negligence**

Where an employee's performance is regarded as serious incompetence / negligence it would be inappropriate to take them through a staged procedure, particularly if the health or safety of patients or other staff is in serious jeopardy or there are serious consequences for the CCG.

In such cases the employee may be suspended pending a thorough and impartial investigation. Employees should be made aware that their incompetence may lead to their dismissal on grounds of gross incompetence without notice. If gross misconduct / negligence is considered then the CCG Disciplinary Policy should be followed.

### **11 APPEAL PROCESS**

At each stage of the procedure, (stage 1,2 and 3) the employee has the right of appeal against any decisions made. The appeal should be lodged in writing within ten working days of the date of the letter of confirmation of the action taken to the next appropriate line manager.

### **12 MONITORING**

Human Resources will:

- Have responsibility to monitor the effectiveness of this policy on an annual basis.
- Make recommendations to the Governing Body.

### **13 FRAUD BRIBERY AND CORRUPTION**

Unfortunately fraud, bribery and corruption, as well as theft, does occur throughout the NHS, and as such all NHS employees have a duty to ensure that public funds are protected. The CCG is committed to reducing the level of fraud, bribery and corruption (economic crime) within the NHS to an absolute minimum and keeping it at that level, freeing up public resources for better patient care.

If an employee, manager or volunteer suspects that there has been a potential act of fraud, bribery or corruption against the CCG or the wider NHS, or has seen any suspicious acts or events, they must report the matter to the CCG's Counter Fraud Team (contact details can be found on the CCG's public website) or report the matter to the NHS Fraud and Corruption Reporting Line on 0800 028 4060.

Alternatively reports can be made through the online reporting tool at <https://cfa.nhs.uk/reportfraud>. Further advice on counter fraud issues is available from the Executive Director of Finance, Deputy Executive Director of Finance/Fraud Champion and the CCG's Counter Fraud Team.

**CCG Counter Fraud Contact details:**

Paul Westwood (Heads CW Audit's Counter Fraud Team and is the CCG's nominated Local Counter Fraud Specialist)

Tel: 07545 502400

Email: [paul.westwood@cwaudit.org.uk](mailto:paul.westwood@cwaudit.org.uk)

Email: [pwestwood@nhs.net](mailto:pwestwood@nhs.net) (secure)

**14 COUNTER FRAUD**

This policy should be read in conjunction with the CCG's policies covering counter fraud, bribery and corruption which can be found on the CCG's website ([www.shropshiretelfordandwrekinccg.nhs.uk](http://www.shropshiretelfordandwrekinccg.nhs.uk)) or you can contact a member of the Team who will be able to supply a copy.

## Appendix 1

### Example of a letter sent to Employees to arrange a Formal Review Meeting

Date

PRIVATE & CONFIDENTIAL

Name

Address

Postcode

Dear

You will recall on (date) we met informally/formally to discuss your performance and we agreed the following measurable objectives: -

Time scale:

- 
- 
- 
- 

It was agreed that your progress would be monitored over (a number) month(s) period and I now wish to meet with you formally/again to discuss your performance.

The meeting has been arranged for (date) at (time) in (place). You are entitled to be accompanied by a Trade Union Representative, or work Colleague.

Please contact me on (extension/phone number) to confirm your attendance by (date). If you cannot attend the meeting, please state the reasons why so that alternative arrangements can be made. The meeting will be conducted by myself together with (name) from the Human Resources Department.

Yours sincerely

(Name)

(Job Title)

cc. Human Resources  
Staff Side Representative



**Example of a Letter Confirming 1st Stage Review of Unsatisfactory Performance**

Date

PRIVATE & CONFIDENTIAL

Name

Address

Postcode

Dear

I refer to the meeting/meetings held on (date/dates) in the presence of (name) from the Human Resources Department, at which you were accompanied by (name).

The meeting was arranged to formally discuss your performance. At the counselling interview the following measurable objectives were set for you over a period of (number) months: -

Time scale:

- 
- 
- 

I feel that despite receiving adequate training and support, you have failed to meet these objectives. In view of the fact that you have not demonstrated a significant improvement over the review period, I am writing to formally confirm your unsatisfactory performance.

As discussed, I shall ensure that you receive appropriate support and training as follows: -

- 
- 

As agreed, I shall monitor your performance over the next (number) months when we shall meet again formally to review your progress. If there has not been any significant improvement in this period further formal action may be taken.

If, in the meantime, you experience any difficulties or need any help and advice, please do not hesitate to contact me.

Yours sincerely

(Name)

(Job Title)

cc. Human Resources  
Staff Side Representative

### Appendix 3

#### Example of a Letter Confirming 2nd Stage Review of Unsatisfactory Performance

Date

PRIVATE & CONFIDENTIAL

Name

Address

Postcode

Dear

I refer to our meeting/meetings held on (date/dates), in the presence of (name) from the Human Resources Department, at which you were accompanied by (name).

The meeting was arranged to formally discuss your performance. At the first formal interview the following measurable objectives were agreed for you over a period of (number) months.

Time scale:

- 
- 

I felt that despite receiving adequate training and support, you have been unable to meet these objectives. In view of the fact that you have not demonstrated a significant improvement over the review period, I am writing to formally confirm your final notification of unsatisfactory performance.

As agreed, I shall monitor your performance over the next (number) months when we shall meet again formally to review your progress. I shall ensure that you receive appropriate support and training as follows: -

- 
- 

As this is the second time that I have had to formally write to confirm your unsatisfactory performance, I have to inform you that if performance does not significantly improve during this period further formal action may be taken.

If, in the meantime, you experience any difficulties or need any help and advice, please do not hesitate to contact me.

Yours sincerely

(Name)

(Job Title)

cc. Human Resources  
Staff Side Representative

**Example of a Letter Confirming 3rd Stage Review of Unsatisfactory Performance**

Date

PRIVATE & CONFIDENTIAL

Name

Address

Postcode

Dear

I refer to our meeting/meetings held on (date/dates), in the presence of (name) from the Human Resources Department, at which you were accompanied by (name).

The meeting was arranged to formally discuss your performance. At the second formal interview the following measurable objectives were agreed for you over a period of (number) months.

Time scale:

- 
- 
- 

I felt that despite receiving adequate training and support, you have been unable to meet these objectives. In view of the fact that you have not demonstrated a significant improvement over the review period, I am writing to formally confirm your final notification of unsatisfactory performance.

As agreed, I shall monitor your performance over the next (number) months when we shall meet again formally to review your progress. I shall ensure that you receive appropriate support and training as follows: -

- 
- 

As this is the third time I have had to write to you regarding unsatisfactory performance I have to inform you that if performance does not significantly improve during this period further formal action may be taken, which could include dismissal.

If, in the meantime, you experience any difficulties or need any help and advice, please do not hesitate to contact me.

Yours sincerely,

(Name)

(Job Title)

cc Human Resources  
Staff Side Representative

## Appendix 5

### Example of a letter sent to an Employee confirming dismissal after 3rd Stage Review

PRIVATE & CONFIDENTIAL

Name

Address

Postcode

Dear

I am writing to confirm the outcome of the meeting held on (date) in the presence of (name), at which you were accompanied by (name).

The meeting had been arranged to discuss your capabilities as (job title). A number of measurable objectives had been set for you over the past (number) months as follows: -

- 
- 

We discussed your performance in depth and I am satisfied that you have been given ample and reasonable opportunity to improve your performance to the required standard. I am also satisfied that you have been given adequate training and support to enable you to meet the requirements of the post.

You have been counselled on a number of occasions regarding your performance and you were seen formally on (date), (date) and (date). At the last meeting, it was made quite clear that if there was no improvement in your performance your contract may be terminated.

We discussed alternative employment and you were not willing to consider any of the opportunities currently available/there are no vacancies at present.

Having considered the position fully, it has been decided to terminate your employment with immediate effect on the grounds of your incapability to undertake the duties and responsibilities of your post.

You will receive (number) week's pay in lieu plus any outstanding annual leave due to you.

In view of the fact that this is a termination of employment on the grounds of capability, I am obliged to inform you that you have the right to appeal against the decision. Appeals should be made to the Clinical Accountable Officer within ten working days of the date on the letter confirming the dismissal clearly stating the grounds for appeal.

Yours sincerely

(Name)

(Job Title)

cc. Human Resources  
Staff Side Representation

**PERFORMANCE MANAGEMENT SUMMARY SHEET– (Name)**

From: **Date From and To**

**A** – Always meets or exceeds the performance objective

**B** – Nearly always meets the performance objective

**C** – Occasionally meets the performance objective

**D** – Seldom meets the performance objective

	PERFORMANCE OBJECTIVE	EXAMPLES OF PERFORMANCE	GRADING				Staff Member Date/Signature	Manager Date/Signature & Comments
			A	B	C	D		
1	<i>Objectives should commence with words such as 'Demonstrate the ability to...' (delete this text)</i>	<i>Transfer in this section the overall grading, based on evidence of each objective collected on the Performance Objective Evidence Sheet (delete this text)</i>						
2								
3								

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PERFORMANCE OBJECTIVE	EXAMPLES OF PERFORMANCE	GRADING				Staff Member Date/Signature	Manager Date/Signature & Comments
		A	B	C	D		
4							
5							
6							

**Signed:**

Employee: .....

Print Name:.....

Date: .....

**Signed:**

Manager: .....

Print Name:.....

Date: .....