



BHES

IMPROVING PERFORMANCE (OF SUPPORT STAFF) POLICY

Note: in this policy reference to governing body or governors refers to the management committee and its members.

Where contextually appropriate for school read service.

Date adopted: 5th October 2020

HISTORY OF POLICY CHANGES

Date	Page	Details of Change
March 2022	All	Removal of Meriton logo Reformatted Reviewed – no changes to body of information

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1. Policy, Purposes and Principles

The public rightly expects high standards of performance from those working in the public sector.

To achieve high standards of performance, we expect managers to set an example by displaying a high level of personal competence, judgement, caring and integrity. We expect them to promote effective working practices, to praise employees when praise is due, and to support and encourage employees when difficulties arise. We expect managers to give clear feedback to employees on their performance, openly, honestly and constructively.

In return, we expect all employees to maintain a high standard of conduct, performance and customer care. We expect employees to work effectively, to be realistic and honest about their own performance, and to make good use of the training and development opportunities open to them. We know that sometimes outside factors can affect performance, and that sometimes employees will need additional support.

However, we must work continuously to improve our services, and this means every employee working continuously to improve their performance.

This procedure aims to assist managers in helping employees to improve unsatisfactory performance in a fair and consistent manner.

The procedure lays down a formal framework but managers should consider any alternative solutions available, particularly those put forward by the employee concerned, which meet the needs of both the employee and the service.

2. Scope

This procedure applies to all support staff employed in locally managed schools.

The procedure does not apply to employees who are still in their probationary period.

This document is not intended to supersede or contradict national negotiating body conditions of service.

For the purposes of this procedure the manager is the headteacher or designated member of staff authorised by the governing body to operate this procedure.

3. Disability or Long-Term Impairment

Managers should consult their HR Provider before tackling a performance problem involving an employee who is disabled or has a long-term impairment.

Your HR Provider will help managers to consider whether there are any implications under the Equality Act.

4. The Procedure

If a manager thinks an employee's performance is unsatisfactory, s/he should talk to him/her about it and offer support and guidance as part of the normal management role. This may be enough to resolve the problem.

Managers must not move into this procedure unless they have:

- discussed their concerns with the employee and tried to find out why s/he has not been performing satisfactorily;
- allowed a reasonable amount of time for the employee to improve his/her performance and to receive any necessary support or training;
- specified clearly what improvements are required;
- put on file the outcome of their discussions with the employee.

5. Stage One - Formal Assessment of Performance

5a. First Performance Improvement Meeting

If informal discussions and action fail and the manager needs to use this procedure, s/he should set up a performance improvement meeting with the employee. The manager must tell the employee, verbally, of the need for the meeting, clarifying his/her concerns and explaining that the employee has a right to be accompanied by a trade union representative or work colleague. All this must be confirmed in writing, giving the employee at least five working days' notice of the meeting.

If the employee is a trade union steward or officer, the manager must tell the appropriate full-time union officer before the first performance improvement meeting.

The performance improvement meeting must focus on the reasons why the employee is not performing well enough and on what can be done by all concerned to put matters right.

The meeting will result in a written performance improvement plan specifying:

- clear performance targets;
- the length of the review period;
- the dates of interim review meetings to assess progress;
- any identified support or training needs.

The manager should make every reasonable effort to reach an amicable agreement about the performance improvement plan with the employee. If such an agreement cannot be made, at this or a subsequent performance improvement meeting, the manager's view will prevail.

5b. Request for a Review of the Performance Plan

The employee can require a review of their performance improvement plan on the grounds that:

- they believe their performance is not at a level which can be considered unacceptable and thus warrant a performance improvement plan; or
- that the targets set are unreasonable.

The wish for a review of the performance improvement plan, along with the grounds on which the request is based, must be made in writing to the clerk to the governing body within five working days of the employee receiving written confirmation of the content of the plan.

The review will ordinarily be heard within a further 10 working days.

The review will be undertaken by either a senior manager in the school, or the chair of governors.

The employee or their representative will have the right to present their case and to call any relevant witnesses.

The options open to the manager/chair of governors in considering this review are:

- Agree that the performance improvement plan as determined by the manager is reasonable, thereby confirming the original plan,
- Decide that the performance improvement plan is inadequate, in which event it will be amended and reissued,
- Decide that a performance improvement plan is unwarranted, in which case it will be discarded.

5c. Second Performance Improvement Meeting

At the end of this first review period, a further performance improvement meeting will take place where progress towards the meeting of the set targets will be discussed, as will the progress of any support and training provided.

If the targets set in the performance improvement plan have been met, the procedure will normally end and the manager will ask the employee to maintain his/her improved standard. (In exceptional circumstances, at any point in the process at which the targets are met, the headteacher may decide

to set a further review period to make sure the employee can maintain the improved standard over a longer period.)

If the targets have not been met, one of the following will occur:

Either

- Where there is sufficient evidence to suggest that the required standard of performance may be achieved within a reasonable timescale (with reasonable support), there will be a further period of review and timetabled interim review meetings and support. At the end of this new review period progress will be reviewed at a performance improvement meeting. If the conclusion from this meeting is that the targets have still not been met, the employee will be given a final period of review and advised that they may be dismissed (in accordance with section 6) if, at the performance improvement meeting at the end of this final review period, it is concluded that they have still not met the targets.

Or

- If the targets have not been met and the headteacher feels there is insufficient evidence to suggest that they will be within a reasonable period of time (and with reasonable support), then there will be a final period of review and timetable of interim review meetings and support. However, the employee will be advised that if, at the performance improvement meeting which will follow the end of that final review period, they have still not met their targets, then a decision to dismiss (in accordance with section 6) may be made.

6. Stage Two - Formal Hearing

6a. Moving towards dismissal – Governors' Panel

At least 10 working days before a performance improvement meeting which could result in dismissal, the manager should write to the employee confirming the date and time of the meeting and that dismissal may result if it is found that the set targets have not been met.

The employee will be reminded of his/her right to be represented at the meeting.

The hearing will be before a panel of governors specially convened for the purpose, who have not been party to any previous performance improvement measures involving the employee.

6b. Considering Dismissal

At the end of the meeting, the panel may conclude that:

- there should be a further period of guidance, support, monitoring and review;
- the employee should be dismissed but offered an alternative (and possibly lower paid) job, with the recommendation of dismissal to the Local Authority standing if the employee rejects the offer;
- it should be recommended to the Local Authority that the employee should be dismissed and, following consideration, that he/she should not be offered an alternative post.

The outcome of the meeting will be confirmed in writing. If the employee is to be dismissed, contractual notice will apply. Depending on the circumstances, schools may consider offering a compensatory payment in lieu of notice.

6c. Alternative Employment

During the process of support, monitoring and review, the manager should consider and, if appropriate, discuss with the employee, whether it would be right and feasible to offer an alternative job more suited to the employee's abilities. Such a post might mean lower earnings for the employee.

The school must consider whether it would be appropriate and feasible to offer the employee an alternative job if they conclude that the employee's performance warrants dismissal. The normal terms and conditions would apply to any alternative job.

An employee can appeal if s/he considers that the offer of alternative employment (which may involve relegation to a lower post) is unreasonable.

This provision applies in circumstances where a school dismisses the employee from his/her substantive post on the grounds of incapability, but decides that the employee could be offered re-engagement to alternative employment elsewhere within the school. A governors' panel will hear this appeal.

In the event that the employee refuses the offer of relegation/transfer to the alternative post, the recommendation of dismissal to the Local Authority will stand (subject to the appeal right referred to in 7d below).

6d. Appeal Against Dismissal

An employee must be informed in writing that he/she may appeal against dismissal from the council's employment by writing to the clerk to the governors within five working days of written notification of the decision to dismiss. The employee should state the reasons for his/her appeal. No right of appeal exists where the employee has been dismissed from his/her substantive job, but has accepted alternative employment. The appeal will be heard by an appeal panel of governors, who were not party to the original decision.

The appeal will normally be heard within six weeks of the employee confirming their wish to appeal. Its purpose will be to:

- review the decision;
- consider whether the necessary procedural requirements have been met.

6e. Decision of Appeals Panel

At appeal, one of the following results will be determined:

- That the appeal is upheld and no record of the case shall be kept;
- That the appeal fails, but the action of the first panel or headteacher is varied;
- That the Appeal has failed and the action of the first panel is confirmed.

An employee cannot be dismissed by the Local Authority until an appeal has been held or where the Local Authority has been notified by the governing body that the employee has not exercised their right of appeal.

In voluntary aided schools, the governing body cannot dismiss an employee until their appeal has been held. Where an employee has not exercised their right of appeal, the date the dismissal should take effect from the date the notice for appeal expired. Paragraph 6d refers

7. Right to be Accompanied/Represented

The employee has the right to be accompanied by a trade union representative or work colleague at any of the performance improvement meetings under this procedure and to be represented by them at any formal meeting.

8. Record on Personal File

All documentation relating to a performance improvement plan will be removed from the employee's personal file after 12 months from the date of the last performance improvement meeting, with the exception of the letter to the employee confirming the details of the plan.