

Performance Improvement (Capability) Policy

Gwasanaethau AD Corfforaethol / Corporate HR Services

<http://intranet/hr>

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The logo for Conwy County Borough Council, featuring a stylized wave or bridge shape above the word 'CONWY' in a bold, sans-serif font. Below 'CONWY' are the Welsh and English names of the council: 'CYNGOR BWRDEISTREF SIROL' and 'COUNTY BOROUGH COUNCIL'.

CONWY
CYNGOR BWRDEISTREF SIROL
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Conwy County Borough Council

Performance Improvement (Capability) Policy

Contents:

	Section	Page
1	Introduction	2
2	Performance Management	2
3	The Formal Procedure Stage 1	3
4	Stage 2	5
5	Stage 3	6
6	Appeal Against Dismissal	6
Appendices	Appendix 1 Procedure to follow at Performance Improvement Appeal Hearings	8

1. Introduction

1.1 The Council is committed to providing high quality services to local residents, and considers that all Conwy CBC employees are responsible for achieving high levels of performance at work. Conwy CBC will provide effective management, guidance and assistance as required, and will train managers to provide helpful and supportive input to employees.

1.2 The purpose of this policy is to help employees achieve the standards of performance required by the Council. It provides a framework to help employees in a positive and sensitive way - by providing feedback, direction and support. It also ensures that performance concerns are handled in a clear, fair and consistent manner, and with the involvement of trade union colleagues if desired.

1.3 The policy applies to all Council employees, other than those based in educational establishments, and will be used to address all forms of performance concerns apart from:

- Probationary period issues (Recruitment and Selection Policy),
- High levels of absence (Managing Attendance Policy),
- Personal misconduct (Disciplinary Policy)

1.4 The agreed terms of the HR Policies below will apply to the application of this Performance Improvement (Capability) Policy,

- Policy Against Bullying – Where robust performance improvement/ capability management and PDR management are not considered to be bullying, and recognises that from time to time managers need to take steps to improve performance of employees.
- Grievance Policy – Where the employee is subject to a performance improvement/ capability procedure.

1.5 No employee of Conwy CBC shall be treated less favourably on the grounds of sex, race, ethnic or national origin, religion or belief, disability, sexual orientation, marital status, age, or language. Neither will they be discriminated against, harassed or victimised as a consequence of the application of this policy.

2. Performance Management

2.1 Conwy CBC has a Corporate Performance Management Framework. This outlines how individual tasks and objectives should be set that

meet service needs and corporate priorities. Managers should also help employees understand how their role fits into the wider Council context. Employees must have a PDR (Performance and Development Review) at least once a year, at which progress is reviewed, and future work activities are agreed. Managers will need to set clear tasks and objectives, and monitor the progress of employees in a timely and appropriate way.

2.2 Managers are responsible for ensuring high standards of work from their teams, and must handle any performance concerns promptly and sensitively. If a manager is concerned about someone's performance they must discuss these concerns with the employee supportively and in a timely fashion. They should try to understand the reasons for the performance gap, and put into place measures which should bring about improvements. These might include training, coaching, additional resources or other support. The management guidelines for this policy include a performance improvement action plan format which may assist this process. File notes of any informal performance discussions should be kept on the employee's digital personal file.

2.3 However, we recognise that informal input may not always be successful in raising performance to the required standard. This policy should only be used when informal discussions with an employee have taken place, and they have been given the chance to improve within a reasonable timescale. Managers should also be sure that the employee has received sufficient training, resources, and support to efficiently fulfil their duties. Cases should be discussed with an H.R. Business Partner prior to starting any formal performance improvement process.

2.4 This policy provides a structure for formal performance discussions to take place over an agreed period of time. Ultimately, should an employee not manage to achieve the agreed standard, they may be dismissed from their post. However this action should be seen as a last resort, and only considered when all other reasonable options have been pursued.

The Formal Procedure

3. Stage 1 Performance Improvement Meeting

3.1 The manager should arrange to meet formally with the employee, giving them 7 working days written notice of the meeting. A member of H.R. may attend the meeting. The invitation letter will include:

- That this is a stage 1 performance improvement meeting.
- Details of who will be present at the meeting.
- A summary of the performance concerns to be discussed.
- The right to be accompanied by a trade union representative or colleague at the meeting. (An employee has the right to be

accompanied by a fellow Conwy CBC employee, or a trade union representative employed by the Council at Stage 1 and 2 meetings, and the option of being represented by a full time trade union official at stage 3 meetings and at an Appeal Hearing).

- A copy of the Performance Improvement (Capability) Policy should be attached to the letter.

3.2 During the meeting, the employee should be advised of the performance concerns in a clear and specific way. Reasons for the continuing underperformance should be explored, and the employee should be encouraged to have their say. Clear targets or tasks should be set for the employee. These should be easy to measure and should be set at a standard which would usually be required of such a post holder. Support measures should also be agreed and could include, for example, further training, mentoring or closer supervision. Managers are encouraged to use the Performance Improvement Action Plan format, which can be found in the manager's guidance notes for this policy.

3.3 Managers should take into account that under-performance could be linked to a disability, language barrier or other matter related to equality issues, and they should take this into account when agreeing improvement plans with individuals. For example, reasonable adjustments might be required, or further training to help them fully undertake the role.

3.4 A timescale for a formal review should be set. This would usually be between one and three months following the meeting. The timescale will depend on the complexity of the role, and the nature of the performance concerns. Ideally the timescale should be agreed with the employee, so that it is seen to be reasonable and achievable. Employees should benefit from at least one informal review during the agreed timescale, and more may be appropriate.

3.5 It is vital that any support managers have agreed to offer is arranged in good time, so that the employee has received every support possible to achieve the areas of improvement.

3.6 Within five working days of the meeting, the manager will write to the employee, confirming what happened at the meeting. The letter should include:

- Who was present at the meeting
- The performance concerns that were discussed.
- Any key comments or concerns from the employee.
- Clear details of the improvements in performance to be achieved, including timescales.
- A summary of any agreed support measures.
- The overall timescale for review, including informal reviews.

- The implications of not improving – progression to the next performance improvement stage.
 - The employee should be made aware that dismissal could ultimately be an option if performance doesn't meet the required standard
- 3.7 Should an employee subject to a Performance Improvement Plan go on long term sickness (more than 2 weeks) the timeframe for the period of the plan will be frozen, and then reactivated upon their return to work
- 3.8 If the employee meets the required standard at the end of the Stage 1 review period, the manager should meet with the employee to confirm that they are now performing to expectation which will need to be maintained on an ongoing basis. This should be followed up in writing, explaining that if performance dips within a 12 month period, then the formal performance improvement process may progress to the next stage at the point where performance deteriorates.
4. Stage 2 Performance Improvement Meeting (formal review)
- 4.1 Should the employee not have achieved the required improvements after the agreed timescale, a stage 2 Performance Improvement meeting may be arranged. This formal review meeting will normally be led by the same manager who held the stage 1 meeting. An H.R. Business Partner may also attend. The employee should receive a written invitation to the meeting as described at stage 1 (para 3.1).
- 4.2 During the meeting, the employee's performance since the stage 1 meeting should be reviewed. The employee should be asked for their comments on progress, and on the support they have received. Any outstanding performance concerns should be clearly explained and targets for improvement, plus any support measures, should be agreed. During the meeting, the employee should be made aware that failure to achieve the required standards will put their employment with the Council in jeopardy.
- 4.3 A timescale for improvement should be confirmed, which meets the criteria as set out in stage 1 (para 3.4).
- 4.4 Within five working days of the meeting, the manager will write to the employee, outlining what was agreed at the meeting. The letter should include the information outlined at stage 1 (para 3.6). It should also clearly warn the employee that their employment will be at risk if they do not achieve the required standards within the agreed timescale.
- 4.5 If the employee meets the required standard at the end of the Stage 2 review period, the manager should meet with the employee to confirm that they are now performing to expectation which will need to be maintained on an ongoing basis. This should be followed up in writing, explaining that if performance dips within a 12 month period, then the

formal performance improvement process may progress to the next stage at the point where the performance deteriorates.

5. Stage 3 Performance Improvement Meeting (final review)

5.1 Should the employee not have achieved the required improvements after the agreed timescale, a stage 3 Performance Improvement meeting may be arranged. This final review meeting will be chaired by a Head of Service, or nominated senior manager. They will be advised by a different H.R. Business Partner to the one involved at the stage 1 and 2 Performance Improvement meetings. If the manager was a Head of Service up to this point, another Head of Service may chair the hearing at stage 3.

The employee will receive a written invitation to the meeting as described at stage 1 (para 3.1). However, this letter should also clearly warn the employee that a decision to end their employment could be made at the meeting.

5.2 During the meeting, the Head of Service will review the performance improvement process that has taken place and listen to any representations from the employee or their representative. The meeting will be adjourned, leaving the Head of Service and H.R. advisor to discuss the case and make a decision. Decisions that could be taken at this point include dismissal, redeployment to another post, or other suitable alternative options, such as downgrading the employee without pay protection if appropriate. Should redeployment be considered, a timescale will be agreed to enable an assessment of available posts to take place. One month should be sufficient for this process.

5.3 This decision will be confirmed in writing within five working days of the meeting. Should the employee be dismissed, the letter will include:

- The effective date of dismissal
- That the dismissal is due to incapability to adequately perform the role for which they were employed
- Details of pay in lieu of notice to be received
- A request to return any Council property
- Details of the right to appeal

6. Appeal Against Dismissal

6.1 There is no right of appeal following a stage 1 or 2 Performance Improvement meeting. Employees have a right of appeal following dismissal at Stage 3 only, and no other outcomes. Should an employee wish to appeal against their dismissal, they must write to the Head of

Corporate H.R. within 7 working days of receiving the letter confirming their dismissal. The Head of Corporate HR will make arrangements for the Appeal Hearing.

6.2 Two members of the Senior Management Team who have not previously been involved in the management of the case, supported by a member of Corporate HR, will hear the appeal.

6.3 If the appellant fails to attend or to be represented at the Panel without reasonable cause or good and valid reasons the Panel may either:

a) Adjourn the hearing to a later date where the reasons presented are considered valid; or

b) Hear the appeal without the appellant or representative being present and reach a decision based on the evidence available at the time.

6.4 Appeal hearings will follow the process outlined in Appendix 1.

6.5 The decision of the Appeal Panel will be confirmed in writing within five working days of the appeal hearing. The decision at appeal will be final and exhausts the appeal process.

6.6 There is no further internal right of appeal

Appendix 1

Procedure to Follow at Performance Improvement Appeal Hearings

1. The manager chairing the hearing will introduce all parties, and clarify the purpose of the appeal hearing.
2. The management case will be presented by the manager who chaired the stage 3 performance improvement meeting, and will include a full chronology and explanation of management action taken so far.
3. Following the case presentation, questions may be asked of that manager by all parties present at the appeal.
4. The employee (or their representative) will present their case, which will include an explanation of why they have chosen to appeal.
5. Following the case presentation, questions may be asked of the employee by all parties present.
6. The Chairing manager will invite both parties to make a closing statement.
7. The hearing will be adjourned, leaving the appeals panel and HR Advisor to discuss the case and make a decision.
8. All parties shall be called back into the room to receive the appeal decision.
9. Where the appeals panel decides to make further enquiries before making a decision, the hearing will be adjourned, and the employee will receive the decision in writing.
10. The decision will be confirmed in writing within five working days of the hearing.