

## MANAGING PERFORMANCE POLICY AND PROCEDURE

### SUMMARY

The Managing Performance Policy and Procedure provides the Trust's approach towards effectively managing and resolving concerns about employee's performance in order to support the highest standards of patient care. It details the stages to be followed by managers when managing work performance whether due to a lack of capability, skill or aptitude. Supporting documents to accompany this policy and procedure are available from Human Resources.

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### 1. INTRODUCTION

- 1.1 The Royal Marsden NHS Foundation Trust (hereinafter called the Trust) recognises that the effective management of performance is essential if it is to achieve the highest standards of patient care.
- 1.2 The Trust wants all employees to succeed at work and within their designated positions with the Trust and it tries to help everyone achieve their best levels of performance. In the great majority of cases employees contribute fully in their position and deliver satisfactorily or better.

### 2. PURPOSE AND SCOPE

- 2.1 The purpose of the Managing Performance Policy and Procedure is to provide clear guidelines for managing underperformance amongst employees that may arise due to a lack of capability by reference to skills or aptitude. It also sets out the rights and responsibilities of managers, employees and representatives.

Authoring Department:	Human Resources	Version Number:	13
Author Title:	Deputy Director of Human Resources	Published Date:	28/08/2020 09:42:22
Ratified By:	Policy Sub Group; TCC	Review Date:	28/08/2021 09:42:22
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- 2.2 The policy and procedure ensures that cases of underperformance are dealt with in a supportive and fair way in order to help the employee achieve the required level.
- 2.3 The policy and procedure applies to employees directly employed by the Trust, excluding bank workers, medical and dental employees.
- 2.4 Medical and dental employees are subject to a separate procedure as provided for under 'Maintaining High Professional Standards (MHPS)'. When any formal action against pharmacists is being considered the investigating manager will consult with NCAS (the National Clinical Assessment Service for the NHS).
- 2.5 When a manager has been unable to establish if unsatisfactory performance is related to a capability or conduct issue, the following Procedure will be followed. Options for possible redeployment will be considered as an alternative to dismissal on grounds of capability due to poor performance. However, this does not prohibit a move to the Disciplinary Procedure if it later becomes clear the unsatisfactory performance is due to a conduct matter.
- 2.6 The Trust believes in providing equity in its services, in treating people fairly with respect and dignity and in valuing diversity, as a provider of cancer care and as an employer.

### 3. REASONS FOR CONCERNS REGARDING WORK PERFORMANCE

Concerns about work performance may be due to a lack of skill and aptitude. These can all affect the capability of the individual to perform their job properly. Problems can occur through, for example:

- Lack of proper training and development
- Insufficient understanding of the role arising from inadequate guidance
- Reorganisation or redefinition of role
- Working conditions which adversely affect effective performance
- The employee not having the range of experience, aptitude and skills to perform the role
- Matters associated with an employee's health: including substance abuse please refer to procedures on managing sickness absence and substance misuse.
- Concerns associated with the employee's domestic situation
- The expectations and standards set were too high for the role
- Change of role or duties following organisational change.

### 4. GENERAL PRINCIPLES

- 4.1 The Trust will seek to ensure concerns of unsatisfactory performance are brought to the employee's attention at the earliest opportunity so they are given the opportunity to improve.
- 4.2 Whenever possible and appropriate, initial concerns about an employee's performance will be handled and resolved through the informal stage of the Managing Performance Procedure.

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- 4.3 Employees will be given the opportunity to improve and will be provided with support and training, as appropriate, to help them reach the required level of performance. Formal action will be taken where initial informal action has not led to the required improvement in performance.
- 4.4 In more serious cases of underperformance, action may be taken at any stage of the procedure, if this can be justified by the seriousness of the circumstances and risk. For example where there is a danger to patient safety or health and safety or other governance considerations, or when it is clear that a person who has been recently appointed lacks the basic skills essential for the post. The Probationary Period Policy and Procedure should also be followed where applicable.
- 4.5 It is acknowledged that performance management may be difficult and stressful time. The HR department, Occupational Health and Staff Counsellors can provide information, support and advice to employees involved in the performance procedure. Further information is available in the Stress Management Policy.
- 4.6 There may be occasions where both the manager and employee agree that redeployment may be the best option and this will be based on suitable posts being available at the time. This will be entirely at the Trust's discretion. Such an offer will be made only where the Trust is confident that the employee has the necessary level of skills and aptitude to perform well in the redeployed role. Where an employee chooses to accept an offer of another post at a lower banding protection of pay will not apply.
- 4.7 Managers will ensure that all action taken under this policy is justified, reasonable and fair.
- 4.8 Throughout the informal and formal stages of the procedure (except dismissal), an opportunity will be given for the employee to improve performance.
- 4.9 Where an employee's performance does not come up to the required standard because of issues relating to health or any other physical or mental condition and the medical advice is that the employee is unfit for work, consideration will be made on a case by case basis about whether to manage the case under the Trust's Policy for Managing Sickness Absence. This does not prohibit a move to the Disciplinary Procedure if it later becomes clear the poor performance is a conduct matter.

## 5. ROLES AND RESPONSIBILITIES

### 5.1 Managers are responsible for:

- Ensuring that new employees attend the Trust's induction programme and receive a local departmental induction and Probationary Review meetings in line with the Probationary Period Policy and Procedure
- Ensuring all employees have a job description, which is reviewed and updated as necessary, and that they are aware of the Trust values and the standards expected of them
- Appraising their employees on an annual basis and ensuring they are given clear SMART (Specific, Measurable, Achievable, Realistic, time bound) objectives and have a Personal Development Plan (PDP)

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- Bringing any concerns about an employee's performance to their attention as soon as the concerns becomes apparent and trying to establish the reasons for the poor performance
- Ensuring actions are taken where appropriate to help an employee to improve performance
- Seeking advice from Human Resources where it is likely that action will be taken under the formal stages of the procedure

## 5.2 Human Resources are responsible for:

- Ensuring new employees are aware of this policy and procedure and are able to access it
- Advising and supporting managers at each stage of the formal procedure. Giving advice on the application of this policy and procedure to ensure it is applied in a fair and consistent way across the Trust
- Recording the outcome of actions taken under the formal stages of the procedure

## 5.3 Employees are responsible for:

- Ensuring they perform the tasks and responsibilities of their role to the best of their ability and to achieve the standards of performance required by the Trust and their department
- Ensuring they raise any concerns which may affect their performance with their manager as soon as they occur, so support, if appropriate, can be given
- To co-operate with any investigation about work performance
- To respond positively to constructive feedback about their performance and to endeavour to improve by engaging with performance improvement plans

## 6. REPRESENTATION

- 6.1 A Stage 1 Informal Performance Discussion will be managed by the manager with the employee on a one-to-one basis. The employee may, if they wish, seek advice from the Human Resources Department or from their Trade Union or Professional Association.
- 6.2 At Stages 2, 3 and 4 the employee may be represented by a Trade Union representative or by a current work colleague who is an employee of the Trust. The representative will be allowed to address the meeting but not to answer questions on the employee's behalf. Efforts will be made when arranging work performance meetings to accommodate the availability of the Trade Union representative or work colleague. However, if there is an unacceptable delay because of the non-availability of the chosen companion, the employee will normally be expected to arrange for an alternative Trade Union representative or work colleague to attend.
- 6.3 Where action to manage the performance of an accredited Trade Union representative is contemplated, then the case will be discussed with a senior Trade Union representative or full time officer before any action is taken.

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## MANAGING PERFORMANCE PROCEDURE

### 7. STAGE 1 – INFORMAL PERFORMANCE DISCUSSION

7.1 Unsatisfactory performance impacts on service delivery and affects employee morale and it is therefore important that performance issues are dealt with when they occur. The manager should hold an initial discussion with the employee to inform them how their performance fails to meet the required standard giving specific examples that the employee can understand.

7.2 Following discussion of the concern the manager may choose to:

- Take no further action;
- Refer the matter for investigation under the disciplinary policy; or
- Issue guidance and/or support to the employee on what he/she needs to do to improve his/her performance.

The manager should write to the employee summarising the informal discussion and any guidance and/or support given along with the timescale for improvement.

*For template outcome letter see appendix 4*

### 8. STAGE 2 – FORMAL PERFORMANCE MEETING

8.1 Where stage 1 does not lead to a satisfactory improvement in the employee's performance, the employee will be invited to a performance meeting. The purpose of a performance meeting is to discuss the employee's performance and decide what measures should be taken, with the aim of achieving the required improvement in the employee's performance. The meeting will be conducted by the employee's manager. The manager may be supported by an HR adviser. The employee will be entitled to be accompanied by a Trade Union representative or work colleague, not acting in a legal capacity.

Summary notes of the meeting will be taken. A digital recording of the meeting may also be made.

8.2 Through the discussion the manager will:

- Make the employee aware of the areas for improvements, giving clear examples
- Listen to and consider any reasons the employee gives for their performance
- State clearly the areas where sustained improvement is required
- Ascertain whether the employee accepts that there is a concern and has insight
- Ensure the employee is made aware of the standard of work required
- Discuss and agree ways to help the employee reach the required level of performance
- Agree specific, measurable, achievable, relevant and time bound (SMART) objectives
- Set a date for a review meeting

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- 8.3 The employee will be given an opportunity to respond to the concerns about his/her performance and to put forward any explanation he/she may have for the matters identified by the manager concerning performance.

The outcome of the meeting may be:

- a decision to take no further action;
- a decision to refer the matter for investigation under the disciplinary procedure; or
- the implementation of a performance improvement plan, designed to bring the employee's performance up to an acceptable level.

At the end of the performance meeting, the employee should be clear on what improvement in performance is necessary, and what steps they must take to achieve this, what support is provided, the timescale for achievement and the possible consequences if performance does not improve.

The manager must confirm the outcome in writing including a performance improvement plan as appropriate.

*For template outcome letter and performance improvement plan, see appendix 6 and 7.*

#### 8.4 Performance Improvement Plan

A performance improvement plan is a series of objectives designed to help improve the employee's performance. Each measure will ideally be agreed with the employee, although the Trust reserves the right to insist on any aspect of the performance improvement plan in the absence of such agreement.

Each performance improvement plan will be tailored to the particular situation, but will contain the following elements:

##### **Objectives**

The performance improvement plan will specify the particular areas in which improved performance is needed and set out how, and on what criteria, the employee's performance will be assessed. Where appropriate, specific targets will be set that will need to be achieved either by the end of the plan or at identifiable stages within it.

##### **Resources**

The performance improvement plan should detail what resources are required to support the employee to achieve the objectives. Consideration may be given to allocating a coach or mentor, to give advice, guidance and instruction to the employee, or a training course to improve specific skills.

##### **Timescale**

The overall timescale in which the necessary improvement must be achieved will be set out in the performance improvement plan, together with the timescale for reaching individual milestones where appropriate.

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Before setting a date for a review meeting, the manager should consider what a reasonable timescale for improvement is. The length of time allowed will depend on the complexity of the job, but should be of sufficient duration to allow a comparison of past, present and future performance. The following factors should be considered:

- Length of time in the role
- Size of the “performance gap”
- Health and safety or risk considerations
- Impact on service delivery
- Personal circumstances

### 8.5 Other Measures

In addition to the performance improvement plan other measures may be taken to reduce any risks arising from performance. Such temporary measures may include additional supervision; restriction of duties, redeployment or relocation.

### 8.6 Feedback

As part of the performance improvement plan, the employee will be given regular feedback from his/her line manager indicating the extent to which the employee is on track to deliver the improvements set out in the plan.

If, at any stage, the manager feels that the performance improvement plan is not progressing in a satisfactory way, or if new concerns arise, a further meeting may be held with the employee to discuss the issue. As a result of such a meeting, the manager may amend or extend any part of the improvement plan, or in some cases where further concerns arise, to bring the review date forward.

### 8.7 Review

At the end of the timescale set by the performance improvement plan, the employee's progress will be reviewed by the manager who will decide on which of the following outcomes is appropriate:

- If all the objectives have been met and the required level of performance has been reached the manager will give positive objective feedback to the employee, ask him/her to maintain the standard(s) reached. This will be confirmed in writing.

Following the successful completion of a performance improvement plan, the performance standard must be maintained. If at any time performance again falls below the standard, required the manager may escalate the concerns to a stage 3 Formal Performance Management meeting.

or

- If all the objectives have not been met the manager may escalate the concerns to a stage 3 Formal Performance Management Meeting. The manager will confirm this in writing to the employee.

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## 9. STAGE 3 – FORMAL PERFORMANCE MANAGEMENT MEETING

9.1 If the performance improvement plan has not led to sufficient improvement in the employee's performance, the manager shall hold a formal work performance management meeting. The manager may be supported by an HR adviser. The employee may be supported by a Trade Union representative or a Trust work colleague. In the meantime the employee should continue to work to complete the objectives set at the previous stage.

The manager should give the employee at least 5 working days written notice of the meeting. The invitation will set out the nature of the underperformance concern being considered and inform the employee of their right to be represented. Summary notes of the meeting will be taken. A digital recording of the meeting may also be made.

9.2 At the meeting the manager will review the actions taken to support the employee, evidence of current performance and progress towards achieving the objectives set.

9.3 If the employee is unable to attend the date arranged because of circumstances beyond their control, he/she must inform their line manager or Human Resources as soon as possible and may request a postponement. A postponement of up to a week (5 working days) will be allowed or longer in exceptional circumstances. If there is an unacceptable delay because of the non-availability of the chosen companion, the employee will normally be expected to arrange for an alternative Trade Union representative or work colleague to attend.

### 9.4 SUSPENSION

It may, in exceptional circumstances, be necessary to suspend an employee. This would only ever be as a last resort and after all other avenues such as redeployment or restriction of duties have been considered, and would usually be on health and safety or risk grounds. Suspension would be in accordance with the terms laid out under section 3.2 of the Trust's Disciplinary Procedure. Where an employee is a representative of a recognised Trade Union, the trade union will be contacted, where possible, before the suspension takes place.

### 9.5 Outcome

The outcome of the performance management meeting may be a decision to:

- take no further action; or
- refer the matter for investigation under the disciplinary procedure; or
- extend the timescale for all the remaining performance improvement plan objectives to be met; or
- where there has been very limited or no progress towards achieving the performance improvement plan objectives to escalate to a stage 4 Final Performance Management Hearing.

A summary letter to confirming the outcome should be sent to the employee normally within 5 working days of the stage 3 Performance Management meeting.

*For template outcome letter, see appendix 10*

9.6 In line with the Trust's Performance Appraisal and Development Review Policy, any concerns about performance should be considered and reflected in the employee's

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next appraisal. Under the Trust's Pay and Progression Policy and Procedure, formal performance management under stage 2 onwards will be taken into account for pay progression.

## 10. STAGE 4 – FINAL PERFORMANCE MANAGEMENT HEARING

- 10.1 If concerns about performance continue, or in exceptional cases if a serious concern arises for the first time, the matter may be referred to a final performance management hearing.

The hearing will be conducted by a senior manager within the Division or Directorate i.e. Divisional Director, Divisional Medical Director, Divisional Nurse Director authorised to make dismissal decisions, or another senior manager with delegated authority to take action up to and including dismissal. The senior manager will be supported by an HR adviser. The employee will be entitled to be accompanied by a Trade Union representative or work colleague, not acting in a legal capacity.

- 10.2 The manager will send a management statement of case, including relevant correspondence, documentation and any other written evidence of previous work performance discussions, performance improvement plan and review meetings, to the employee at least 5 working days before the Final Performance Management Hearing. This will form the basis of the case to be considered at the formal hearing. If the employee wishes to make a written statement or provide any other relevant documentation at the meeting or to respond in writing to the management case, this should be forwarded at least 2 working days before the formal work performance meeting to the Human Resources representative supporting the chair of the meeting.

Summary notes of the hearing will be taken. A digital recording of the hearing may also be made.

- 10.3 If the employee is unable to attend the date arranged he/she may request a postponement. A postponement of up to a week (5 working days) will be allowed or longer in exceptional circumstances. If there is an unacceptable delay because of the non-availability of the chosen companion, the employee will normally be expected to arrange for an alternative Trade Union representative or work colleague to attend.

If there is a failure to attend without any request for postponement, or without an acceptable explanation, then the hearing may be conducted in the employee's absence and a decision made based on the information available.

- 10.4 Both the manager and the employee may call witnesses and these should be notified in advance of the meeting. Employees are responsible for notifying their own witnesses and ensuring they can attend the hearing.
- 10.5 The manager will explain how the performance falls short of the required standards and outline what steps have previously been taken to assist the employee. The employee will be given the opportunity to respond. Where the issue(s) concern professional or technical matters, the manager chairing the hearing may seek additional advice from an appropriate person with specialist and professional knowledge.

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## 10.6 Outcome

The outcome of the hearing may be:

- A decision to take no further action;
- Extend the timescale for all the remaining performance improvement plan objectives to be met; or
- An offer to redeploy the employee to an alternative role, including a lower banded role where appropriate; or
- A decision to dismiss the employee.

Any offer to redeploy the employee will be entirely at the Trust's discretion. Such an offer will be made only where the Trust is confident that the employee has the necessary level of skills and aptitude to perform well in the redeployed role. It will normally only be offered on a trial basis as an alternative to dismissal in circumstances in which the Trust is satisfied that the employee should no longer be allowed to continue to work in his/her current role. Where an employee chooses to accept an offer of another post at a lower band as an alternative to dismissal, protection of pay will not apply.

While the employee is free to refuse any offer of redeployment, the only alternative option available will usually be dismissal.

- 10.7 If the senior manager believes that there is no alternative role available and suitable for the employee, but that they have not met an acceptable standard of performance, the decision may be made to dismiss. Any dismissal will be with full notice or payment in lieu of notice. The decision to dismiss together with the reasons for dismissal will be confirmed in writing and sent to the employee, normally within 5 working days of the hearing.
- 10.8 Where an employee is dismissed in accordance with this procedure, they will have a right of appeal. Appeals will be managed in accordance with the Trust's Appeal Procedure, available on the Trust's intranet.

## 11. NOTIFICATION TO PROFESSIONAL BODIES

- 11.1 In serious cases of performance the Trust may report the matter to the appropriate statutory/professional body.

## 12. REVIEW

- 12.1 Overall responsibility for this policy and procedure rests with the Director of Workforce. This procedure will be reviewed at the date stated and may be subject to change at that time, or at an earlier date if necessary, subject to consultation with staff representatives recognised for that purpose.

## 13 LINKED TRUST POLICIES AND PROCEDURES

Probationary Period Policy and Procedure

Stress Management Policy

Trust's Policy for Managing Sickness Absence

Pay and Progression Policy and Procedure

Performance Appraisal and Development Review Policy

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**APPENDIX 1****Template Letters**

Listed below are template letters for managers to use and available from Employee Relations on request.

Appendix No	
1	Flowchart for Managing Performance procedure
2	Stage 1 Initial Discussion Guidance
3	Stage 1 Informal Performance discussion meeting invite
4	Stage 1 Informal Performance Discussion outcome letter
5	Stage 2 Formal Performance Meeting invite letter
6	Stage 2 Formal Performance Meeting outcome letter
7	Performance Improvement Plan (PIP) template
7a	Formal Meeting Guidance
8	Stage 2 Formal Performance acknowledgment of improvement letter
9	Stage 3 Formal Performance Management meeting invite letter
10	Stage 3 Formal Performance Management meeting outcome letter
11	Stage 4 Final Performance Management Hearing invite letter
12	Stage 4 Final Performance Management Hearing outcome letter
13	Management Statement of Case for Performance Hearing template

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