

Wiltshire Council Human Resources Improving Work Performance Policy and Procedure

This policy can be made available in other languages and formats such as large print and audio on [request](#).

There are further supporting documents which should be read in conjunction with this policy. These will be made available to managers and employees, as necessary.

Employees who have any queries regarding the policy should speak to their line manager or trade union representative (where they are a member). Procedural advice can be sought from HRAdvisory@wiltshire.gov.uk

What is it?

1. The effective performance of all employees is crucial to enable the council to provide quality services to our community. The council promotes a High Performance Culture.
2. This policy and procedure provides a consistent framework for dealing with unsatisfactory performance in a consistent, fair and effective manner. With the overall objectives to support and encourage the employee to achieve and maintain a satisfactory level of performance. It is in everyone's interests to ensure such matters are addressed. The policy conforms to the ACAS Code and Guidance, relevant legislation and good practice.

Scope and General Principles

3. The policy applies to all Wiltshire Council employees, including Centrally Employed Teachers, unless a separate policy applies under a TUPE transfer. It does not apply to employees during their probation period. Maintained schools and academies have their own policies.
4. For any Member appointed posts (Chief Officers and deputy Chief Officers) this policy must be read in conjunction with their terms and conditions of employment and the Council's constitution.
5. For those employees on terms and conditions with annual salary progression, managers reserve the right not to award a salary increase if the employee is going through this process.
6. Where an employee is not performing in their role due to a health related problem (including disability). These cases will usually be managed through the sickness absence policy.

7. This procedure may be suspended at any point where it becomes apparent that the matter might be best dealt with in line with a different policy and procedure e.g. the disciplinary procedure. The employee will be advised of this and next steps.
8. Whilst managers will seek to agree any Improving Work Performance Plan with the employee, managers will be able to insist on any aspect considered to be reasonable.
9. An employee has a statutory right to be accompanied at any of the formal stages, outlined below by a work colleague or trade union representative. Refer to the council's guidance on The Right to be Accompanied.
10. The employee must take all reasonable steps to attend formal meetings. If an employee is unable to attend they should inform the manager. If there is failure to attend, without notice or good reason, more than once the manager can decide to proceed in their absence, on the basis of information available. An employee will be notified of this decision and outcome in writing. If an employee's companion is unable to attend the employee should offer an alternative date, ideally within 5 working days of the original date.
11. Warnings issued at any of the formal stages as detailed below will be confirmed in writing. There is a right of appeal against any warnings/dismissal issued, in line with the Council's 'One Appeal' Policy.
12. When the standard required is achieved this policy will be suspended but if performance falls again it may be re-invoked. The stage at which this re-commences will be determined on a case by case basis.
13. A manager may apply/extend more than one monitoring review period during any formal stage.
14. If under performance is significant and seriously affects service delivery, the manager can instigate this procedure at any formal stage without having issued any previous warning. Where the apparent lack of capability is serious enough for dismissal (i.e. the employee is rendered immediately incapable of discharging their duties) the matter will be handled under stage 3 –Consideration to Dismiss

Dealing with matters informally

15. In most cases any performance improvement required will be addressed through discussions with the employee and line manager and, where needed, an Improving Work Performance Plan. The employee will be made aware of the problems identified and the performance level required, the manager and employee will discuss support available and any timescales for improvement applied. Where performance improves to an acceptable level the process will cease. However, where performance does not improve to an acceptable level or within the timeframe set it will move to the formal stage.

Stage 1 - First Formal Meeting

16. The employee will be invited to a performance improvement meeting, with a minimum of 5 working days notice. They will be provided with a copy of any supporting documents/evidence which will be relied upon in the meeting. The employee can submit relevant documents they wish to be considered up to 2 working days prior to the meeting.
17. The manager will discuss their concerns regarding the employee's performance at the meeting. The employee will have the opportunity to respond to these concerns and discuss any other related information for consideration.
18. Having carefully considered all that has been discussed and supporting evidence, the manager will adjourn to consider the decision. The decision will be confirmed verbally and will be followed up in writing, usually within 5 working days of the meeting.

Actions and Outcome Options of the First Formal Meeting

19. The possible outcomes at this stage are:
 - Take no further action, as a satisfactory response was given to the performance concerns. The employee will be expected to maintain an on-going satisfactory standard. Any future deterioration in performance may result in the procedure being re-invoked.

OR

 - Issue a Written Warning for unsatisfactory performance which stays live for 12 months.
 - Issue a Final Written Warning if the performance is deemed to be very unsatisfactory or serious which stays live for 18 months.
20. Either warning will detail that failure to reach the required standard during the set monitoring period could result in further formal action being taken including, ultimately, the possibility of dismissal.

An Improving Work Performance Plan will be given, to summarise what the performance issues are, improvements required, support available and a monitoring period (timescale) with review date.

21. **At the end of the first monitoring period**, there will be a review meeting to discuss the employee's performance.

22. The possible outcomes are:

- If improvements have been achieved to a satisfactory standard, there will be no further escalation through this procedure at this time. However, if, at any stage during the period any warning remains live (12/18 months) the employee's performance falls short of a satisfactory standard the manager may decide to apply this procedure at any of the formal stages.
- If, despite additional support or other measures or remedial action, the employee fails to improve to the standards expected, it will be necessary to move to the second or third formal stage of the procedure.

Stage 2 - Second Formal Meeting

23. The manager will write to invite the employee to a meeting with a minimum of 5 working days' notice, along with a copy of the documents which will be relied upon. The employee can submit relevant documents 2 working days prior to the meeting.
24. The manager will discuss the on-going performance issues and the grounds on which the meeting is convened. This will include sufficient detail on why it's believed the employee's performance is still unsatisfactory, against any Improving Work Performance Plan measures and remedial action to date.
25. Having carefully considered all that has been discussed and the supporting evidence, the manager will adjourn to consider the decision. This will be confirmed verbally and followed up in writing, usually within 5 working days of the meeting.

Actions and Outcome Options of the Second Formal Meeting

26. The possible outcome of this stage are :

- There will be no further escalation through this procedure at this time as satisfactory improvement has been achieved. However, if, at any stage during the period any warning remains live the employee's performance again starts to fall short of an acceptable standard the manager may decide to initiate this procedure at any of the formal stages

OR

- A final written warning is issued, which remains live for 18 months, outlining that failure to reach the required standard during the next review period will likely result in a stage 3 meeting, with dismissal as a possible outcome.
- A further monitoring period will be set along with an Improving Work Performance Plan (new or amended) which will set out all the revised actions,

support available and timescales.

27. **At the end of the second monitoring period**, there will be a **review meeting** to discuss the employee's performance.
28. The possible outcomes are:
 - there will be no further escalation through this procedure at this time as satisfactory improvement has been achieved. However, if, at any stage during the period a warning remains live the employee's performance again starts to fall short of an acceptable standard the manager may decide to initiate this procedure at any of the formal stages.
 - If, despite additional support or other measures or remedial action the employee has failed to improve significantly or at all, it will be necessary to move to stage 3 of the procedure.

Stage 3 - Third Formal Meeting – Consideration to Dismiss

29. The meeting will be chaired by a Head of Service or a nominated deputy ('the hearing manager').
30. The employee will receive a written invite to the meeting, with a minimum of 5 working days' notice. This will include all supporting documents to be relied on at the meeting. The employee can submit relevant documents 2 working days prior to the meeting.
31. Both the manager and the employee will have full opportunity to present their case.
32. The hearing manager will undertake a review of all documentation and the steps taken to date and the views of both the employee and their manager.
33. There will be an adjournment, to carefully consider all the evidence and options. The meeting will be reconvened and the decision confirmed verbally. This will be followed up in writing , usually within 5 working days of the meeting.

Actions and Outcome Options of the Third Formal Meeting

34. The possible outcomes of this stage are:
 - **Dismissal with notice or pay in lieu of notice.** The employee will be dismissed on the grounds of lack of capability. This will be confirmed in writing with the reasons for the decisions. Arrangements regarding notice or pay in lieu of notice will also be confirmed.

- **No further action.** Where, on all the evidence available, it's believed improvements have been satisfactory and the employee is meeting the performance standards expected or there are some exceptional mitigations which warrant no further escalation through this procedure at this time, no further action will be taken. However, if, at any stage during the period that any warnings remain live or within 18 months (if no previous warnings have been issued) performance again starts to fall short of a satisfactory standard, the manager may decide to initiate this procedure at Stage 3

35. The hearing manager may also consider other options such as:

- **Redeployment or some other adjustments** – any offer or request to redeploy or consider other options (e.g. change to working patterns) will be entirely at the council's discretion, taking account of the details of the case and where the council is confident that the employee will be able to perform well in the redeployed role / or adjustments to current role. Redeployment will be subject to any suitable role being available or likely to become immediately available. Any redeployment will be on the terms and conditions of any other role, there will be no pay protection.
- **A further brief, final review period** , this must clearly indicate the performance level required, timescales and monitoring. Failure to improve will lead to a reconvening of the stage 3 meeting for consideration to dismiss.

Equality

36. Wiltshire council is committed to equality, the principles of which are set out in the [Equality and Diversity Policy](#), together with information on the Equality Act and on our public sector equality duty (PSED).
37. Where an employee feels that there are adjustments that would help them to deal effectively with a formal process, they should make the relevant manager/officer dealing with the case aware, at the earliest opportunity.

Data Protection and GDPR (General Data Protection Regulations)

38. Wiltshire Council processes personal data in regard to this policy in accordance with the General Data Protection Regulations (GDPR). Further details on how employees data is used and the basis for processing it is provided in the [HR & OD privacy notice](#).

Data collected is held securely and only disclosed to individuals for the purpose of completing the policy. Inappropriate access or disclosure of employee data may constitute a data breach and must be reported in accordance with Wiltshire

Council's Data Protection policy. Any such breaches may result in an investigation and could lead to disciplinary action.

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