

EMPLOYMENT POLICY

Managing Performance

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1. Scope & Purpose

- 1.1. At Lothian Group we are committed to dealing with performance issues in a manner that is fair, consistent and in line with our values. This procedure is a means of encouraging improvement when an employee's performance is falling below the required standards, rather than simply imposing sanctions. The Lothian Group encourages the use of informal action, where appropriate, before referral to the formal stage of the performance procedure.
- 1.2. This includes identifying whether further training, support, coaching, more tools/resources, better communication or improved working relationships may resolve the performance issues. A joint problem-solving approach is encouraged between the manager and the employee.
- 1.3. The Managing Performance procedure is to be used where an employee's performance falls short of the required standards. As there is no wilful misconduct on the employee's part, it is inappropriate to apply the formal disciplinary procedure.

- 1.4. Performance issues may be outside the employee's direct control and can be symptomatic of underlying work or personal issues. Consequently, there is a need to treat all performance issues with appropriate care and sensitivity and to identify and address the real causes.
- 1.5. This policy applies to all Lothian Group employees, except probationers. Employees within their probation period, should be dealt with under the Probationary Policy.

2. Definitions

- 2.1. **Objectives** - refers to specific goals/targets to be achieved as part of the employee's role within the organisation.
- 2.2. **Performance Improvement Plan** - (or 'PIP' as it is commonly known) is to be used by line managers where it is identified that an employee is not carrying out their work to a satisfactory standard.

3. Key Principles

- 3.1. It is the responsibility of all line managers to ensure that they are familiar with the contents of the Managing Performance procedure and follow the process set out below. Line managers should provide a supportive environment within their teams. Employees are accountable for making every effort to make any improvements required.
- 3.2. Employees are responsible for co-operating when they are requested to attend performance related discussions. Employees should be open and forthcoming about any performance issues and discuss their concerns with their manager.
- 3.3. Managers may invoke the Managing Performance Policy at the final stage, omitting the first and second stage, depending on the level of poor performance and the individual circumstances. For example, in situations where managers establish that there is no further support or training that can be reasonably offered to the employee to achieve the required improvement.

- 3.4. Any employee identified as having performance difficulties will be offered training and support to improve to the required standard.
- 3.5. Managers should apply a fair and consistent process of dealing with performance issues.
- 3.6. At each stage, consideration should be given to whether the unsatisfactory performance is related to a disability and if so, whether there are reasonable adjustments that could be made to the requirements of the post or other aspects of the working arrangements.

4. Performance Warnings

- 4.1. The Managing Performance Policy usually consists of four stages which should be followed consecutively, unless managers decide to invoke the final stage due to the level of poor performance and circumstances.

Performance Meeting	Potential Outcome	Duration
Informal discussion of Performance		

Informal discussion of Performance	Performance Improvement Plan and Informal Improvement letter	As per agreed timescales, until a sustained level of performance is achieved
1st Stage Performance Meeting – Formal	First Improvement Warning	6 months
2nd Stage Performance Meeting – Formal	Final Improvement Warning	12 months
Final Stage Performance Meeting – Formal	Dismissal will be considered with notice	

5. Performance Objectives

- 5.1. Performance is monitored by the achievement of the employee's main duties and responsibilities as set out in the employee's job description.
- 5.2. During all stages of the Managing Performance procedure, it is the manager's responsibility to ensure that the employee's performance objectives are discussed and reviewed during the performance meetings. It is also the

responsibility of the manager to ensure that expectations and goals for the forthcoming months are identified and understood by the employee. This is to ensure that the employee is fully aware of the required level of performance expected, and where they are underperforming.

6. Additional Training & Support for Employees

6.1. At each stage of the Managing Performance procedure, the manager will explore any additional training and support the employee believes they need to assist them in meeting the requirements of the role.

7. Informal Discussions

7.1. In the first instance, performance issues should be dealt with informally between the employee and the manager as part of day-to-day management. Informal discussions will be held during working hours with a view to:

- Identifying areas of concern.
- Clarifying the required standards.

- Establishing the likely causes of poor performance and identifying any training needs.
- Establishing any other support the employee may need.
- Setting targets for improvement.
- Agreeing a time-scale for review.

7.2. An informal review must take place between the employee and the line manager prior to the commencement of any formal performance meetings. This is to ensure that the employee is made aware of a performance shortfall, allowing them the ability to improve.

7.3. Clarity should be given on the potential next stage of the process should the necessary improvement/s not be reached in the agreed timescale.

7.4. If after the agreed timescales, the employee's performance is still a concern and not at the required standards for the role, then the line manager should arrange a further meeting. At this stage, the line manager should use the Performance Improvement Plan which is a

support tool to outline the required level of performance required. It is important that the contents of this plan and what is required to be achieved is set over a reasonable period of time and any objectives, training and review meetings are defined.

7.5. The manager will allow sufficient time for the improvements to come into effect. Some improvements may take longer to achieve due to the complexity or opportunity to undertake the task.

7.6. Outcome of Informal Review

It is the responsibility of the manager to issue the Performance Improvement Plan to the employee, and agree the details of the areas of underperformance and timescales for improvement.

7.7. Confirmation of Improved Performance

If the employee improves their performance to the required standard following the initial informal stage, the employee is to remain on the informal stage until the performance is sustained over a set period of time. It is the manager's responsibility to ensure that regular

documented informal discussions take place during this time. Once the performance has been sustained to the extent that performance is no longer an issue, the employee must be informed of this and the manager should confirm this in writing.

7.8. Decline in Performance following a period of Improved Performance

If the employee's performance was to decline after 2 – 3 months following a period of improved performance, then the manager may move to the next stage of the Managing Performance procedure, which would be the formal performance stage.

8. Formal Performance Meetings

8.1. If the performance of the employee fails to improve to the required standard despite being given informal guidance and support, a formal performance meeting should be arranged.

8.2. It will not be necessary for an investigatory meeting to be held prior to a formal performance meeting. A

performance meeting will usually be the result of other discussions, for example, performance reviews, accident reports, informal performance discussions, and any notes from these prior meetings such as the Performance Improvement Plan may be used in this meeting.

- 8.3. The employee should be advised of the reasons for the meeting in writing not less than 48 hours (2 calendar days) before the meeting. The letter should specify the date, time, and location of the meeting.
- 8.4. The letter should specify what stage of the performance meeting the employee is invited to (first stage, second stage or final) and these meetings should be held during working hours.
- 8.5. Performance meetings will usually be chaired by the employee's line manager.
- 8.6. All employees have a right to be accompanied to a formal performance meeting. The employee's right to bring a trade union representative or other work colleague to the meeting should be explained in the letter and at the beginning of the meeting. It is the employee's

responsibility to arrange their own companion to attend the meeting.

- 8.7. A representative from the HR Team may attend the performance meeting, if required, to support the meeting in a HR capacity.
- 8.8. Neither parties are permitted to take any electronic recordings of any performance meetings including any appeals without prior consent of both parties.
- 8.9. At the meeting the manager will:
 - Provide details of the concerns regarding the employee's poor performance and seek their feedback as to the reasons for this.
 - Explain how and why the performance is below the required standards.
 - Review the employee's performance since the informal stage started, discussing relevant objectives or targets, specifying examples where performance has improved and where it is still below the required standards.

- Discuss and seek ideas on any tools which may help to improve performance.
- Discuss in detail an updated Performance Improvement Plan scheduled over a defined period. This should detail specific objectives, training and review meetings.
- Establish any other areas of support the employee may require.

8.10. A performance meeting may be adjourned if the manager needs to gather any further information or give consideration to matters discussed at the meeting. Whilst an adjournment should not be unnecessarily lengthy it should take as long as is required and sufficient time given to reach a decision. In the event that the decision may take longer than an hour and it is not possible to do this on the day, the hearing will be reconvened on another date but without delay. If there is further information / documents to be considered, the employee will be given a reasonable opportunity to consider any new information obtained before the meeting is reconvened.

8.11. The decision will be confirmed in writing to the employee and, where applicable, the reasons for a formal warning; the duration of the formal warning; what will happen if improvements are not made/maintained; and the right of appeal will also be confirmed.

9. First Improvement Warning

9.1. Where the employee has been unable to improve to the required standard as a result of informal discussions and the Performance Improvement Plan, the employee will normally be invited to a Formal Performance Meeting.

9.2. At the end of this meeting the employee may be given a First Improvement Warning.

9.3. A First Improvement Warning will remain active on an employee's record for a period 6 months.

9.4. The decision will be confirmed in writing which will also clearly set out the areas in which the employee did not

meet the required performance standards, the improvement/s in performance required and timescales for expected improvements.

- 9.5. Following the warning, regular informal meetings will take place between the manager and employee to discuss the employee's ongoing performance including any measures which will be taken to improve performance such as additional training or supervision. These meetings will not result in any formal sanction being given, they are purely an opportunity to discuss the employee's performance.

10. Final Improvement Warning

- 10.1. Where the employee has been unable to improve to the required standard within an agreed reasonable period during the First Improvement Warning, the employee will be invited to attend a Formal Performance Meeting.
- 10.2. At the end of the meeting the employee may be issued with a Final Improvement Warning.
- 10.3. A Final Improvement Warning will remain active on an employee's record for a period of 12 months.

10.4. The decision will be confirmed in writing and it will also clearly set out the areas in which the employee did not meet the required performance standards, the improvement/s in performance required and timescales for expected improvements.

10.5. Following the warning, regular informal meetings will take place between the manager and employee to discuss the employee's ongoing performance including any measures which will be taken to improve performance such as additional training or supervision. These meetings will not result in any formal sanction being given, they are purely an opportunity to discuss the employee's performance.

11. Dismissal

11.1. Where the employee has been unable to improve to the required standard within an agreed reasonable period during the Final Improvement Warning, or where there is no further support that can be reasonably offered to enable the employee to improve to the required

standards, the employee may be dismissed with the appropriate notice.

11.2. In cases where dismissal could be a possible outcome of the formal performance meeting, a discussion should take place with an HR Business Partner prior to the meeting.

11.3. As an alternative to dismissal, or in addition to a warning, the decision may be made to:

- Demote the employee (with a consequent reduction in salary and, where appropriate, removal of any benefits associated with the previous level or position);
- Transfer the employee to another position or location (with a consequent reduction in salary and, where appropriate, removal of any benefits associated with the previous level or position);
- Where the role allows it, alter the employee's role or responsibilities (with a consequent reduction in salary and, where appropriate, removal of any benefits associated with the previous level or position).

12. Appeal Procedure

- 12.1. If the employee disagrees with the outcome of a formal performance meeting, an employee can appeal the decision. Any appeal should be made in writing within 7 calendar days from receipt of the performance warning/dismissal confirmation. This should be made to the appeal manager identified in the outcome letter. The appeal letter should clearly set out the reasons for the employee's appeal whether this is severity of the outcome, procedural concerns or new evidence.
- 12.2. The appeal manager will be someone who has not previously been involved and who is, where reasonably practicable, more senior than the person who conducted the original meeting.
- 12.3. The appeal hearing should be arranged without delay, usually within 14 calendar days of receipt of the appeal letter.
- 12.4. An employee is entitled to be accompanied to the meeting by either a colleague or a trade union representative.

- 12.5. During the appeal hearing the employee should explain why they are appealing the outcome.
- 12.6. The appeal manager can then ask any relevant questions regarding the matter. If necessary they can end the meeting and conduct further investigations into the case.
- 12.7. The appeal manager will respond to the employee within 14 calendar days of the meeting in writing, confirming the outcome of the appeal hearing. Should it be necessary to extend this timescale, the employee will be advised of this.
- 12.8. Should an appeal be successful in the event of dismissal, an employee's full terms and conditions will be reinstated with continuous service and pay from the day of dismissal.
- 12.9. There is only one right of appeal.

13. Role of a Companion

- 13.1. An employee may be accompanied to a formal performance meeting and appeal hearing by a work colleague or a trade union representative.

13.2. Where the line manager or appeal manager believes the chosen companion could be a conflict of interest to the hearing, they reserve the right to decline this companion clearly stating the reasons for this. In these circumstances the employee can select another companion should they wish. Examples such as this could be where the chosen companion is a family member or could be part of the process themselves.

13.3. It will not be deemed reasonable for an employee to ask to be accompanied by a companion from another location if someone is suitable and willing on site. The companion should be allowed to address the meeting/hearing to put forward the employee's case. They can confer with the employee and seek clarification on points for the employee. They are not permitted to answer questions on the employee's behalf or address the meeting/hearing if the employee does not want them to. A companion should not prevent the line manager/appeal manager from explaining their case. Should this happen, the hearing may be adjourned and the companion may be asked to leave the meeting/hearing.

13.4. There is no obligation for anyone to act as a companion if they do not wish to.

13.5. Under no circumstance should a companion or trade union representative receive copies of the employee's performance letters or notes. If the employee wishes to provide these documents it is the responsibility of the employee to do so.

13.6. It is the responsibility of the employee to arrange their representative's attendance for the meeting/hearing. Failure to arrange representation may result in the hearing being held without a representative present. Hearings should always be arranged during the times when representation is available.

14. **Linked Policies**

- Disciplinary Policy
- Attendance at Work Policy
- Probationary Policy
- Diversity & Inclusion Policy

- Flexible Working Policy
- Performance Appraisals Policy

15. Version Control

Version No.	Date of Change	Change made by:	Key Amendments
V1.0	09/12/2019	S Murphy	Published
V2.0	05/12/2023	P Butler	Clarification of existing clauses Added Performance Appraisals Policy as a linked policy People Team changed to HR Team
V3.0	22/11/2024	C MacLeod	Amended clauses 3.3, 5.2, 9.1, 10.1, 11.1.

This policy does not form part of employees' terms and conditions of employment and may be varied from time to time in accordance with business and legislative requirements.