

**PROBATION POLICY**

1. The probation policy which has been developed to meet business objectives is appended.
2. The policy seeks to introduce a consistent and modernised approach to managing probationary periods in the interests both of supporting organisational and individual performance and supporting employees into new roles with the Council. The policy is based on relevant regulations and codes of practice, up to date good organisational practice and is in line with case law development.
3. Consultation with HR, a senior managers' reference group has taken place and the revised policy is supported. Consultation with the trade unions is on going.
4. Detailed management guidelines are being developed to support the policy implementation. Many of the outcomes of the consultation meetings will be fed into the management guidance and managers, HR and trade unions will continue to be consulted on the guidance. An implementation plan including communications and training has been developed.

# Wolverhampton City Council



## Human Resources Policy Framework

### Probation Policy

<b>Approved by:</b>	<i>Cabinet Resources Panel (xx.xx.2014)</i>
<b>Published:</b>	<i>xx.xx.2014</i>
<b>Review date:</b>	<i>xx.xx.2014</i>

#### **CONSULTATION**

The following officers and/or bodies have been consulted on this policy:

Officers and/or Bodies	From	To
<b>HR</b>	October 2013	December 2013
<b>MRG</b>	October 2013	November 2013
<b>CDB/SEB</b>		
<b>CCC Scrutiny Panel</b>		6 March 2014

The following Trade Unions have been consulted on this policy:

	From	To
<b>Unison</b>	November 2013	
<b>GMB</b>	November 2013	
<b>Unite</b>	November 2013	

REVIEW LOG			
Date	Version	Comments/Review	Approved by

EQUALITY ANALYSIS
<p>An equality analysis has been carried out on this policy and procedure. Contact HR Strategy and Policy Team for a copy on 01902 552345 or by email to <a href="mailto:HR.supportdesk@wolverhampton.gov.uk">HR.supportdesk@wolverhampton.gov.uk</a></p>

ADVICE
<p>Contact HR on 01902 552345 or email <a href="mailto:HR.supportdesk@wolverhampton.gov.uk">HR.support desk@wolverhampton.gov.uk</a> for HR advice.</p>

COMMENTS AND AMENDMENTS
<p>Contact HR on 01902 552345 or email <a href="mailto:HR.support@wolverhampton.gov.uk">HR.support@wolverhampton.gov.uk</a> to make any comments or suggest any feedback on this policy.</p>

DISTRIBUTION
<p>This policy and procedure is available on the HR intranet for managers and employees to view. Copies can be provided to recognised Trade Unions and managers electronically.</p>

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## **1. Policy Statement**

- 1.1 This policy covers Wolverhampton City Council's practice on probationary periods for all employees
- 1.2 Managers and employees are advised to familiarise themselves with the policy to ensure that they are aware of the expected standards of performance and conduct.

## **2. Scope**

- 2.1 This policy and procedure applies to all employees of the Council, including senior managers and employees based in schools e.g. teaching assistants. It is designed to ensure prompt, reasonable and consistent treatment for all employees.

### **2.2 Variations**

Employees appointed under terms and conditions for specific roles, which have additional professional probation requirements, such as social workers and teachers are required to complete a longer assessment e.g. 12 months, before their appointment is confirmed.

## **3. Principles**

- 3.1 All Wolverhampton City Council's employees are required to satisfactorily complete a 6 month probationary period before they can be confirmed in post.
- 3.2 The probation period includes employees who have been recruited to posts within Wolverhampton City Council or from another local authority.
- 3.3 The Council's Probation Policy is intended to help new employees establish their suitability for the post to which they have been appointed and to provide a "settling in" period.
- 3.4 The probationary period should be a constructive process that assists managers when determining whether or not to confirm an employee into their new role. It provides a framework that enables managers to assess the performance of new employees, and to provide any necessary support.

## **4. Process and Procedure**

### **4.1 Induction**

Wolverhampton City Council's Probation Policy will work alongside the induction process with relevant support and guidance provided throughout this period. (For further information on Induction, see the Council's Induction Policy and Procedure).

#### 4.2 One-to-One support and Personal Development Reviews (PDR)

Managers will assess the employee's knowledge and skills in the new role and provide coaching, support and guidance throughout their probationary period to enable them to reach the expected standards.

The manager should keep a record of the one –to- one (1-1) meetings and should use the Probationary Review Form as a checklist to review the standards of performance of their employees. (See attachment A).

The probation process will link to the Council's Appraisal process which will measure the performance objectives set at the beginning of the employee's probationary period. (For further information, refer to the Appraisal policy). Once the new employee completes their probationary period they will receive their first performance appraisal.

### 5. Probation Review Meetings

Probation review meetings will be carried out at 1, 3 and 6 months for all employees and there may be further review periods for specific professional areas, such as teachers or social workers.

Managers will provide continuous encouragement, praise, support and guidance to employees new to their roles enabling them to reach the agreed objectives and performance targets during their probation.

The manager is expected to carry out regular 1-1 meetings throughout the employee's probationary period. These meetings are an important part of the probation process as it provides both the manager and employee with the opportunity to meet regularly to discuss the employee's work performance achievements and areas for development.

An employee has the right to be accompanied by a trade union representative or work colleague to attend formal review meetings. HR will send a letter to the employee that gives a minimum of 5 working days' notice.

#### 5.1 Initial Review – 1 Month

This review meeting will be held when the employee has been appointed to a new role. The review meeting should be held between the manager and employee that include a discussion about:

- The requirements of the job role
- The expected standards of performance, conduct and attendance
- The objectives to be achieved
- The desired outcomes
- Timescales
- How performance will be assessed and monitored
- When the employee will know whether they have passed their probation.

## 5.2 First Formal Review - 3 Months

An employee will receive regular 1-1 meetings with their manager to check that they are on target to achieving their performance objectives. The manager will offer relevant coaching, guidance and support to assist with any identified development opportunities.

The manager should have a formal 3 month review meeting with the employee to discuss their work performance, conduct and attendance. Employees should be advised at the meeting whether they have met performance standards satisfactorily during this period of probation.

Where the review reveals doubts about whether their performance is satisfactory, a discussion should take place to:

- identify the problem(s);
- specify what improvements are required; and
- what arrangements (e.g. coaching, training, etc.) will be made available to facilitate this improvement within an agreed timescale).

The manager should advise the employee that an improvement is required, but they will continue to receive support, training and guidance, where necessary, throughout the probationary period.

The outcome of this review meeting will be confirmed in writing by HR within five working days of the meeting.

## 5.3 Final Formal Review - 6 Months

Managers should provide all employees new to their respective roles with constructive feedback, encouragement and advice before their probationary period ends.

All employees will have a formal 6 month review meeting with their manager at the end of the probationary period to discuss their work performance, conduct and attendance.

There will be 3 possible outcomes following the formal review meeting:

- Passed probation
- Extension to probation
- Not passed probation

## 6. Outcomes

### 6.1 Passed Probation

The manager will inform the employee that they have satisfactorily met the required standard to complete their probationary period and a letter from Human Resources will be sent to confirm the appointment. OR

### 6.2 Extension to Probation

Where the manager identifies that there has been some improvement in the employee's performance which has just fallen short of the agreed improvement timescale, a decision will be made on whether to extend the probationary period up to a further 12 weeks; but **not** beyond.

Managers should consult with HR prior to extending the probationary period. **Any decision made to extend the probationary period will be at the discretion of the employee's manager.**

The probation period will only be extended where there is a clear indication and expectation that the employee's performance will improve by the extended timescale; OR where the employee has been absent from work due to mitigating circumstances.

Where an extension to the probation has been agreed, the manager will explain to the employee at a formal meeting the reasons for the extension, agree an action plan and continue to have regular reviews with them detailing the additional support that will be given throughout the review process to enable them to reach the required standard. A letter will be sent from HR outlining the decision.

Managers should provide constructive feedback, support and guidance to the employee and continue to monitor their performance against the agreed objectives during the extended probationary period.

The employee should be advised at the review meeting that if they fail to improve to the required standard during the extension period, their employment will be terminated. A letter will be sent by HR to confirm the decision. **This decision will be final and the employee will have no right of appeal.** OR



### **6.3 Not Passed Probation**

Managers will discuss the employee's performance against the agreed objectives that had been set at the review meetings together with the training and support that has been provided throughout the probationary period.

Where the employee's work performance has remained unsatisfactory and it is considered that further training or support would not lead to them reaching the required standard, their employment will be terminated at the end of the probationary period. HR will send a letter to the employee to confirm the decision with the necessary notice period.

Employees who have additional 'professional or vocational probationary requirements to meet will have their employment terminated at the end of their specified probationary period.

## **7. Roles and Responsibilities**

### **7.1 Roles and Responsibilities of Employees**

- Demonstrate their suitability for the post in their conduct and behaviour
- Meet the agreed objectives within the specified timescales
- Identify to their manager at the earliest opportunity whether they are experiencing any difficulties.

### **7.2 Role and Responsibilities of Managers**

- Establish and communicate the standards of performance of the Council
- Hold regular one-to-one meetings with the employee to form a good working relationship and to provide feedback to the employee on their progress
- Arrange and conduct formal probation review meetings at the intervals as prescribed in the performance management procedure
- Provide supervision to monitor progress or identify difficulties and provide opportunity for resolution by providing training and guidance as necessary
- Advise Human Resources on the outcome of the probation following an extension of any difficulties during the probation period
- Confirm the decision verbally on whether or not the employee has completed their probationary period successfully at their final review meeting.

### **7.3 Role and Responsibilities of Human Resources**

- Provide support and guidance to managers and employees on the policy

- Ensure the policy is communicated, reviewed and updated in line with legislation and where possible
- Monitor and review the process by sending out probation review reminders, where necessary
- Advise on cases of unsatisfactory performance and progress and, where appropriate, support managers during formal meetings
- Confirm in writing the outcome of the probation following an extension of or difficulties that have been identified during the probationary period.

#### **7.4 Role and Responsibilities of Chief Human Resources Officer**

In consultation with the recognised trade unions, the Chief Human Resources Officer will exercise delegated authority for and be responsible for the on-going review and updating of this policy to ensure compliance with changes in statutory requirements and operational delivery, including responsibility for identifying the appropriate process for the regular evaluation of the effectiveness of this policy. Any fundamental changes will be brought before Cabinet (Resources) Panel for approval.

#### **7.5 Role of Trade Union**

Any review and revisions of this policy will be undertaken by Human Resources and this will be in consultation with the Council's recognised trade unions.

### **8. Monitoring and Review**

- 8.1 The Probation policy and procedure will be reviewed and updated annually and will be available to managers and employees via the Human Resources intranet.

### **9. Links to other Policies and Procedures and Terms and Conditions**

- 9.1 The probation policy cannot be seen in isolation, it is closely linked with the following policies:
- Induction
  - Capability
  - Grievance
  - Appraisals
  - Recruitment and Selection Policy and Procedure

## 10. Equality

- 10.1 This policy has been subject to an equality analysis.
- 10.2 The Council has a duty to monitor the application of the policy in relation to protected characteristics under the Equality Act 2010.
- 10.3 If any aspect of this policy causes difficulty on account of any disability that you may have, or if you need assistance as English is not your first language, employees should raise this issue with Human Resources, who will make appropriate arrangements.

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## APPENDIX A

### PROBATIONARY PERIOD REVIEW FORM

Please complete a new form for each review; ensure you have previous evaluation forms available to you

#### • EMPLOYEE'S DETAILS

Name: ..... Job Title: .....

Directorate: ..... Start Date: .....

#### AT WHAT STAGE IS THIS REVIEW? (Please tick)

1 month       3 month       6 month     

Other

Date: .....      Date: .....      Date: .....      Date: .....

The assessment necessary to complete this form should be made during an interview with the employee who should sign the form at the appropriate place to indicate: understanding of the comments, any action plan, targets and the possible consequences of failure to meet these. A copy of the form should be given to the employee after each review interview and a copy sent to HR to be put on the individual's personal file.

Please rate items 1-9 as appropriate:

**A = Excellent – no area for improvement, goes beyond what is expected**

**B = Above requirements – goes the “extra mile”, a high standard**

**C = Meets requirements – satisfactory, adequate**

**D = Just falls short of requirements**

**E = Poor**

	1 Month	3 Month	6 Month	Other (e.g. 12 Months)
<b>Date</b>				
1. Meeting targets				
2. Standard of work				
3. Initiative				
4. Relationship with colleagues				
5. Relationship with managers				
6. Relationship with subordinates (if applicable)				
7. Relationship with partners				
8. Awareness of corporate policies				
9. Sickness Record: No. of <u>working days</u> absence during period No. of <u>occasions</u> of absence during period Please add extra information on sickness record if required				

10. Other comments				
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Please answer "yes" or "no" to the following questions.

	1 Month	3 Month	6 Month	Other (e.g. 12 Months)
<b>Date</b>				
11. Is the employee's timekeeping satisfactory?				
12. Has it been necessary to discuss with the employee: a) Any recurring issues in the performance of his/her duties? b) Any misconduct? c) Any non-compliance with policies?				
13. Has it been necessary to give: a) Any additional training? b) More than normal supervision?				

Employees who are not meeting the required standards of work or conduct at any stage during their probationary period should be set aims and objectives with reasonable target dates which will enable them to overcome any of these difficulties. These must be discussed with the employee to ensure that they understand the aims and objectives, the reasons for setting them, as well as the consequences of failing to achieve them. These may be set at any time but details must be entered on the probationary form as well as the employee's personal file.

14. If improvement in some areas is required, please complete the table below:

In what area(s) is improvement required? (e.g. customer service, punctuality, report-writing etc.)	What standards of performance or conduct are required? (i.e. what is expected of the employee?)	By when?	What support / training / development will be provided? (if applicable*)

\* May not be applicable if related to conduct e.g. punctuality

**My current assessment is that:**

- I consider the employee's performance to be satisfactory, or better
- I consider the employee's performance to be **unsatisfactory**

**Manager Comments:**

.....  
**Manager signature**

.....  
**Date**

**Employee Comments:**

I understand the above comments, action plan and targets which have been discussed with me. I understand that failure to achieve these targets to the agreed standards will jeopardise my continuing employment with the organisation.

.....  
**Employee's signature**

.....  
**Date**

**Next steps for the manager**

- Send a copy of this form to the employee and HR.
- Book the next review or meeting date, as necessary.
- Arrange support and follow-up to make sure it happens.
- Complete Probationary Form and submit to HR.

**CAPABILITY POLICY**

1. The capability policy which has been developed to meet business objectives is appended.
2. The revised policy was introduced April 2013 and has been reviewed following 9 months of operation and detailed design workshops as part of the Futureworks programme for the implementation of the Agresso system.
3. The revisions emphasise the management of performance in the earlier stages and introduces advisory/improvement notifications as outcomes. The final stage of the policy provides for sanctions, including dismissal, for incapability and therefore has a right of appeal.
4. Consultation with HR, a senior managers' reference group has taken place and the revised policy is supported. Consultation with the trade unions is on going.
5. Detailed management guidelines already exist, but will be amended to reflect the revisions and support implementation. Many of the outcomes of the consultation meetings will be fed into the management guidance and managers, HR and trade unions will continue to be consulted on the guidance. An implementation plan including communications and training has been developed.

# Wolverhampton City Council



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## Human Resources Policy Framework

### Capability Policy and Procedure

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<b>Approved by:</b>	<i>Cabinet Resources Panel (12.03.2013)</i>
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<i>Review date:</i>	<i>01.10.2014</i>

#### **CONSULTATION**

The following officer and or bodies have been consulted on this policy:

Officers and or Bodies	From	To
<b>HR</b>	04.12. 2012	22.02. 2013
<b>MRG</b>	20.12.2012	31.01.2013
<b>CDB</b>	12.12.2012	21.02.2013
<b>SEB</b>	12.12.2012	21.02.2013
<b>PGSS</b>	07.03.2013	

The following Trade Unions have been consulted on the policy

	From	To
<b>Unison</b>	15.012013	31.01. 2013
<b>GMB</b>	15.012013	31.01. 2013
<b>Unite</b>	15.012013	31.01. 2013



## REVIEW LOG

Date	Version	Comments/Review	Approved by
20.11.2012	0.1	LH	
30.11.2012	0.2	LH/SS	
15.01.2013	0.4	LH following HR moderation panel	
18.02.2013	0.5	HR Review	

## EQUALITY ANALYSIS

An equality analysis has been carried out on this policy and procedure. Contact HR Strategy and Policy Team for a copy. Contact HR on 01902 552345 or by email on [HR.supportdesk@wolverhampton.gov.uk](mailto:HR.supportdesk@wolverhampton.gov.uk) for HR advice.

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## **1. Policy Statement**

- 1.1 This policy is designed to help and encourage all employees to achieve and maintain standards of good performance. The formal process should be followed once all other informal avenues have been exhausted. It is the employee's manager's responsibility to follow the procedure where performance is shown to be below the standards required for the role.
- 1.2 Wolverhampton City Council has a commitment to assist employees to achieve and maintain a high standard of performance in their work. It will ensure that standards are clearly defined and communicated, performance is monitored and employees are given appropriate training and support to meet these standards.
- 1.3 Cases of poor performance should be identified and tackled promptly and the manager's focus and the employee's efforts must be to work together to meet the required standards.
- 1.4 The annual performance appraisal process is where objectives and development need are discussed and agreed. Cases of poor performance should not be left to be dealt with under this process. The appraisal sets the standards for monitoring and reviewing the objective achievements.
- 1.5 Issues of poor performance should be identified at an employee's 1:1 meeting and tackled promptly.
- 1.6 Employees have a statutory right to be accompanied by a trade union representative, or work colleague, at any formal meeting or appeal hearing.
- 1.7 The Council will review this policy and procedure from time to time in line with statutory procedure and best practice.

## **2. Scope**

- 2.1 This policy and procedure applies to all employees of the Council, excluding those employees directly employed by schools, JNC officers and employees who are within their probationary period, in which case, the probationary procedure applies.

## **3. Principles**

Wolverhampton City Council recognises that its employees are essential to achieving its strategic objectives.

- 3.1 The policy aim is to help employees to perform competently in his/her job role.

### 3.2 In applying this policy the Council will:

- Ensure that staff are competent and confident in their roles by encouraging a continuous cycle of personal development including:
  - Induction
  - 1:1 meetings
  - Group supervisory meetings – where appropriate
  - Performance appraisal
- Identify and tackle cases of poor performance promptly
- Establish the facts before taking action
- Not normally dismiss an employee for poor performance unless a chance to improve has been given
- Ensure that objectives and performance measurements are discussed at the annual appraisal meeting
- Ensure that matters of poor performance are addressed throughout the year through 1:1s or group supervisory meetings and that the annual appraisal process contains no surprises for employees or managers over performance levels
- Consider whether poor performance may be related to a disability and if so, whether there are any reasonable adjustments that can be made to overcome difficulties caused by workplace arrangements
- Assess each case on its merits.

3.3 Address issues relating to attendance and health through the Managing of Attendance Policy/Procedure.

3.4 Address issues relating to misconduct through the disciplinary procedure.

3.5 Any refusal to comply with reasonable instructions relating to performance standards will be tackled under the disciplinary procedure.

3.6 Before taking any formal action managers should first seek to establish the facts and decide whether a more positive approach is likely to be more effective.

## 4. Process and Procedure

The policy is written with the purpose of helping employees to improve on their work performance. Managers will assess each capability issue on its merits providing support, guidance and the offer of any available training, where applicable to enable the employee to reach the expected level to perform in his/her job role competently.

Human Resources will be involved in **all** formal review stages of the capability process to offer coaching, support and guidance to managers, enabling them to resolve performance issues at the earliest intervention.

Employees will have the right to be accompanied by a work colleague or trade union representative at any formal capability meetings or at an appeal hearing. Managers should keep records of all 1-1's and formal review meetings.

#### **4.1 Informal Action – (Informal meeting)**

Cases of minor or unsatisfactory performance are usually best dealt with informally. A quiet word may be all that is necessary to improve an employee's performance. In some cases, additional support, coaching and advice may be necessary.

The cause of the poor performance should be discussed with the employee and the appropriate action to rectify the issues taken.

Where managers monitoring an employee's performance identify the cause for the underperformance is due to the lack of skills required to do the job, the employee should be offered training, coaching or some other appropriate assistance, if applicable.

A reasonable timescale to achieve and maintain the required standard should also be agreed between the manager and employee. Managers should keep brief notes of any informal discussions held with the employee.

#### **4.2 Formal Action**

##### **Stage 1 – Improvement Review Meeting (Formal Review Meeting)**

Where an employee shows little (or insufficient) improvement following informal attempts to deal with the performance issues, the manager will write to the employee inviting him/her to attend a formal capability review meeting.

Managers are responsible for setting realistic standards of performance, for explaining these standards to employees and for the provision of training, support and guidance, where applicable, so that the employee has the opportunity to perform well.

The employee should be given five working days' notice of the meeting. The letter should advise them of:

- The specific nature of the poor performance issue along with supporting documents, where appropriate
- Time and date of the formal review meeting
- The right to be accompanied by their trade union representative or work colleague.

At the formal review meeting the manager will present evidence of the informal actions/support that has been given to assist the employee to reach and maintain the required standard of performance.

The employee will be encouraged to give his/her view of the performance issues raised and asked whether any further support is needed to improve.

At the end of the formal review meeting, the employee will be notified within 5 working days of the outcome, unless it is not practicable to do so.

### **Unable to attend meeting**

Employees who are unable to attend the formal review meetings because their trade union representative or work colleague cannot attend may offer a reasonable alternative date within five working days of the original date.

In instances where the employee becomes sick or has a stress related illness the review meeting can be re-scheduled once. If the employee still remains sick, the hearing should go ahead and a decision made in his/her absence.

### **The decision at the formal review meeting may be one of the following:**

- No further action is required and the employee will receive written notification confirming this decision.
- The finding of poor performance for which a formal improvement letter is issued to the employee. The letter will cover the following:
  - The performance issue
  - The improvement required
  - The timescales for achieving the improvement
  - Review date
  - Any support the manager will give to assist the employee
  - Potential to progress to stage 2 if insufficient improvement is demonstrated at the review.

The length of the improvement period will be dependent upon the performance issues identified. A reasonable length of time should be agreed for improvement to be made. The precise time for the improvement will depend upon the complexity of the issue and the potential adverse impact on the service delivery.

Managers should provide support, guidance and training as available, throughout the review periods to help enable employees to improve to the required level of competence.

An inability to demonstrate an improvement in performance following a review could result in the matter being progressed to stage 2 of the procedure.

#### 4.3 **Stage 2 - Improvement Review Meeting (Insufficient Improvement) (Formal Review Meeting)**

Where an employee's work performance does not improve sufficiently within the review period, **OR** if there is further evidence of poor performance, the manager will write to the employee advising him/her of the:

- Issues of concern on the employee's performance during the review period along with any supporting documents, if appropriate
- Time and date of the formal review meeting, giving at least five working days' notice unless not practicable to do so
- Right to be accompanied at the meeting by a trade union representative or a work colleague.

**There will be three possible decisions made at the formal review meeting:**

No further action required

- There has been satisfactory improvement in the employee's performance and no further action is required.

**OR**

Some improvement but not to the expected level

- There has been some improvement in the employee's performance but not to the expected level required; the review period will be extended for a specific period.
- The manager will continue to monitor the employee's performance and will offer training, development advice, guidance or other support to enable the employee to achieve to the required standard during this review period.
- The letter sent to the employee will make it clear that failure to meet the required standard may potentially result in the employee being progressed to stage 3 of the procedure which in turn could potentially result in dismissal.

**OR**

Insufficient Improvement

- There has been insufficient improvement in the employee's performance and the manager will issue a final improvement letter. This will include details of the underperformance and the expected level of improvement required.

The final improvement letter will include specific, reasonable timescales for the employee to make the improvements in his/her work performance, where

the expected standards have not been met. The letter will be disregarded for capability purposes after 24 months or such other period as specified at the time it is issued.

#### 4.4 **Stage 3 – Final Decision Hearing (Dismissal or Other Action)**

Where there has been insufficient improvement in the employee's performance, the manager will write to the employee advising them of the:

- Time and date of the hearing
- Right to be accompanied at the meeting by a trade union representative or a work colleague
- Their right to ask relevant witnesses to appear to support his/her case
- Issues of concern regarding performance during the review period along with supporting documents, if appropriate. Supporting documents may include notes of one to ones or supervisory meetings, the appraisal documentation showing agreed objectives and/or notes from appraisal meetings.

The capability hearing will be conducted by a panel and arranged within **15 working days** of the decision to proceed. The panel will be chaired by an appropriate senior manager with the authority to dismiss, who has no previous involvement in the case and normally from the respective Directorate or Service area.

#### **Following the stage 3 hearing the following options may be considered:**

##### Dismissal on Capability Grounds

An employee will receive a formal failure to improve letter that explains that they are being dismissed on capability grounds and given the appropriate notice period as set out in their contract of employment.

In some cases the employer may be prepared to offer the employee an alternative to dismissal, which may be one of the following:

##### Transfer

A transfer to a single, specified and available post of the same grade which the employee would be competent to fill as an alternative to dismissal.

**OR**

##### Demotion

Demotion to a lower graded post. In this instance there will be no protection of pay and the employee will automatically serve a 6 month probationary period in the new post. The recording of this sanction will remain on file for 24 months.



Should the Chair of the capability hearing be contemplating a transfer or demotion, then the hearing must be adjourned and the case discussed with the Chief Human Resources Officer before any alternative job offer is made. If this sanction is approved and the employee agrees to this offer; the right of appeal will be removed. If the employee does not agree to an offer on these terms, as an alternative to dismissal, then dismissal will take place and he/she will be informed of his/her right of appeal.

## **5. Appeals against Dismissal (Appeal Hearing)**

- 5.1 The right of appeal against dismissal will be to the Human Resources Appeal Panel. The notice of intention to appeal against dismissal should be made in writing to the relevant Strategic Director within **5 working days** of written confirmation of dismissal.
- 5.2 The purpose of an appeal against dismissal is for an employee to have his/her case reviewed and for the Chair to decide whether or not the dismissal applied is fair, reasonable, consistent and soundly based.

## **6. Roles and Responsibilities Roles and Responsibilities of Employees**

- 6.1 Employees have a responsibility to comply with this policy adhering to its terms and conditions, and be responsible for their performance.

### **Roles and Responsibilities of Managers**

- 6.2 Managers have a responsibility to communicate this policy to their staff and sanctions for breaches.

Managers should ensure that this policy is applied within their own area. Any queries on the application or interpretation of this policy must be discussed with HR prior to any action being taken for breaches.

### **Roles and Responsibilities of HR**

- 6.3 HR will provide operational support and advice to the organisation to enable the effective management of capability issues under this policy.

Specifically, HR has a responsibility to:

- Produce and maintain managers guidance notes
- Ensure the communication, maintenance, regular review and up dating of this policy
- Monitor and review delivery and impact of this policy.

## **Role of Head of HR**

- 6.4 In consultation with the recognised Trade Unions, The Chief HR Officer will exercise delegated authority for and be responsible for the on-going review and updating of this Policy to ensure compliance with changes in statutory requirements and operational delivery, including responsibility for identifying the appropriate process for the regular evaluation of the effectiveness of this policy. Any fundamental changes to this policy will be brought before the Resources Panel for approval.

## **Role of Trade Unions**

- 6.5 Any review and revisions of this policy will be undertaken by HR and will be in consultation with the Council's recognised trade unions.

## **7. Monitoring and Review**

- 7.1 The Capability policy and procedure will be reviewed and updated annually and be available to managers and employees via the HR intranet.

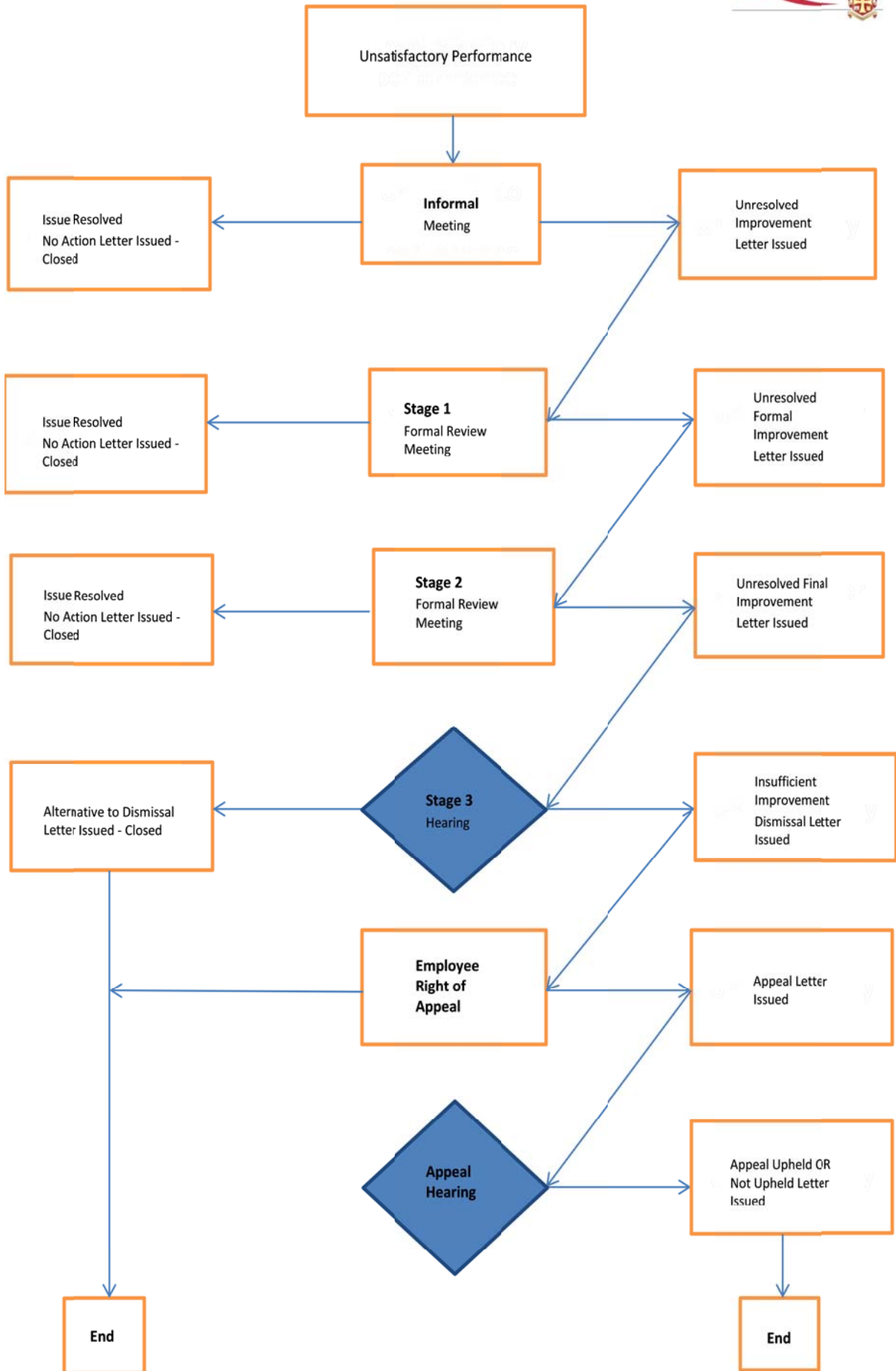
## **8. Links to other Policies and Procedures**

- Performance Appraisal and Personal Development Review Policy and Procedure
- Grievance Policy
- Disciplinary Policy

## **9. Equality**

- 9.1 An Equality Analysis has been carried out on this policy and procedure.
- 9.2 The Council has a duty to monitor the application of the policy in relation to protected characteristics under the Equality Act 2010. This is reported annually in the Council's Equality Monitoring Report.
- 9.3 If any aspect of the capability procedure causes you difficulty on account of any disability that you may have, or if you need assistance because English is not your first language, you should raise this issue with HR, who will make appropriate arrangements.

Capability Process Flowchart



## **Glossary**

### **Capability**

The ability to perform the duties required of the role. Capability differs from disciplinary which is concerned with (mis)behaviour whereas capability deals with ability.

### **Poor Performance**

Performance is the required work standard and expectation of employees. The appraisal process will be where the employee's objectives are set and will identify the measurement of these objectives. Poor performance is where an employee is not achieving the required standard for the role and this should be dealt with promptly to rectify the situation.

### **Annual Appraisal**

The yearly appraisal meeting where objectives are reviewed, new ones are established and the personal development requirements are agreed.

### **One to one (1:1)**

A one to one (1:1) is a regular formal meeting between the manager and the employee, sometimes referred to as supervision.

### **Appeal**

Where an employee feels that the outcome issued following the hearing is inappropriate they have the right to appeal this decision. For a sanction short of dismissal, the employee should let their Assistant Director know the grounds for their appeal in writing in accordance with this policy. If the appeal is against dismissal then this will be heard by the Human Resources Appeal Panel and the intention to appeal should be made in writing to the relevant Strategic Director. The appeal will be heard without unreasonable delay and the arrangements for this will be notified to the employee in advance. The outcome of the Appeal will be final.