



E11 Performance Management Policy and Procedure

1. Context

This policy reflects Nottinghamshire County Council's commitment to effective performance management and provides a framework for managers to work with employees to establish standards; to maintain satisfactory performance; and to encourage improvement where necessary.

The policy supports and enables every employee to contribute towards the goals of their teams and the organisation as a whole. Employees will know the priorities, aims and objectives of the County Council; understand how their role contributes to achieving these goals; ensures they possess the necessary skills and competencies to fulfil their role; are aware of the expected standard of performance; can expect to receive positive, constructive feedback; and be supported and enabled to identify and address any performance gaps.

2. Scope of this policy

This policy is applicable to all centrally employed County Council employees with a few exceptions including temporary staff with less than 12 weeks service; workers supplied through an employment agency and those covered by the School Teachers Pay and Conditions (STPC) document. For those covered by the STPC document new statutory arrangements came into effect from 01 September 2012 (the School Teachers' Appraisal (England) Regulations 2012 (the Appraisal Regulations) which replace the Education (School Teacher Performance Management) (England) Regulations 2006. The Appraisal Regulations 2012 set out the principles that apply to teachers in all maintained schools and **unattached teachers** employed by a local authority in each case where they are employed for one term or more.



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This policy should be read in conjunction with the following policy and guidance:

- the [Competency Framework and guidance](#) for each tier
- [Employee Performance and Development Review](#) (EPDR) Process
- The [Performance Management Good Practice Guide for Managers](#)
- Dealing with Disability Related Performance issues – See [Appendix B – Section G9 Capability/Performance Procedure](#)
- Any relevant Professional and Technical Competencies

Any performance issues relating to an agency worker should be addressed through the supplying agency.

This policy is intended to address poor performance. It will not apply to cases involving sick absence; unsatisfactory probation periods; proposed redundancies or misconduct.

3. Principles and Commitments

Performance management will be applied fairly and consistently. Employees will not be discriminated against because of their age, disability, gender reassignment, race, religion or belief, sex, sexual orientation, marriage and civil partnership, pregnancy and maternity or trade union membership status. The County Council recognises the contribution of individuals and values diversity. Employees will have a clear understanding of their job purpose and the standards expected of them. Managers will support and enable employees to reach the required level of performance through the following means:

- effective induction into a new role



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- access to relevant learning and development opportunities, including coaching and mentoring where appropriate
- clearly understood objectives which are SMART (specific, measurable, achievable, relevant and timely)
- regular support and supervision which includes constructive feedback on performance and a reminder of required standards
- completion of the EPDR process including assessment and regular reviews completed within the published timescales
- effective use of the [competency framework](#) as outlined in the related guidance
- a commitment to address any performance issues at the earliest opportunity to ensure the employee has the ability to improve to the required standard.

Performance management will happen as part of the normal day to day management arrangements and individual performance will regularly be discussed in supervision sessions and as part of the EPDR process. Team performance will be discussed in regular team meetings.

4. Key actions to meet the commitments set out in the policy

Managers are required to reasonably consider the performance issues and the action taken to address them before formal action is instigated.

Employees will be given every opportunity and all appropriate support to improve. However where the required improvement is not made and sustained or the case is of more serious poor performance, the procedure outlined below should be used. Details of the steps taken to try to achieve the required improvement will form part of the evidence presented at any future formal hearing. Early intervention by managers will include:

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- clarifying the required standards
- identifying areas of concern
- establishing the likely causes of poor performance and identify any training needs
- setting targets for improvement and a timescale for review.

Managers must maintain written records to support the action taken to address performance issues. Any written evidence should include supervision minutes; minutes of ad hoc meetings called to address performance issues; and letters highlighting concerns about an employee's performance. It should also contain a record of the steps taken to address the performance issues, for example, training records, learning logs, action plans. The employee should be aware of all the written records regarding their performance but they do not necessarily have to be in agreement with the content. Where a disagreement cannot be resolved, the employee or their representative can provide a note outlining the points of disagreement which will be attached to form part of the official record.

Managers must consider whether poor performance could be related to a disability and, if so, whether there are reasonable adjustments that could be made to an employee's working arrangements, including changing duties or providing additional equipment or training. If an employee wishes to discuss any adjustments/adaptations they require or if they want to inform their employer of any medical condition(s) considered relevant to their performance, this should be done through their line manager or a member of the [HR team](#).

All managers have a responsibility to implement this policy and follow the outlined procedure where necessary and to make sure their staff are aware of



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both the policy and procedure and understand how it applies to them and their personal responsibilities under it.

5. The Procedure

Formal action will not be taken against an employee until the case has reasonably been considered. This means that the issues have been identified and where practicable, the employee has been given every opportunity to improve their performance. This is a staged process where the employee receives a warning(s) about the need to improve their performance to the required standard before any further consideration is given to their future employment and the potential for their contract of employment to be terminated under the terms of this procedure. Employees will not normally be dismissed for performance reasons outside of their probation period without a previous warning being issued.

The employee will be informed in writing that the procedure is being instigated when their performance has fallen below the required standard and they have been unable to make the required improvement within the given timescale. The employee will be given the opportunity to state his or her case at the hearing before any decision is taken. The employee's case can be made in person, through a representative or by making written representations.

In some exceptional cases, it may be advisable to temporarily redeploy, adjust existing duties or suspend an employee because of the risk their poor performance poses to service users, the public or their colleagues. Suspension is on contractual pay and is a neutral act. See [Paragraph 4 – Section E3 Disciplinary Procedure](#). However once an employee is suspended they are unable to demonstrate improvement in their performance and



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consideration will need to be given as to whether they can return to their substantive role with an appropriate risk assessment in place or whether redeployment to a different, equivalent or more junior role is more appropriate. Some cases of performance shortfall may be so significant as to constitute gross negligence and these circumstances may be better considered under the Discipline procedure. Managers are strongly advised to discuss any such cases with their usual [HR team](#).

Employees will be provided with written copies of any information to be relied upon at the formal hearing; this includes any written evidence, professional codes and/or relevant witness statements. The employee has the right to be accompanied by a trade union representative, other suitably indemnified person, appropriate work colleague or support person at any formal hearing arranged as part of this process. (Please note that any support person present is not entitled to speak as part of the process and are there solely to provide individual support to the employee).

The employee will receive 15 working days notice of any formal performance management hearing and have received a copy of the management statement of case and any written evidence to be relied upon within 10 working days of the hearing. The employee must submit their statement of case and any response to the management case no later than 5 working days prior to the hearing.

The line manager will convene the hearing to review the performance of the employee and any action taken to date to enable the necessary improvement to be made. This will include consideration of a management statement of case which identifies the performance issues and provides evidence of what support and assistance has been put in place to address these issues and to enable the employee to improve. The manager must be able to provide information regarding job purpose; standard setting; induction; support and supervision and any previous warnings about the implications for continued employment if improvement has not been made and maintained. The panel



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will consist of a chair person, a second panel member and an HR adviser. The panel members will have no previous direct involvement in the case.

6. Stage 1 – possible outcomes of the performance management hearing

A **written warning** for unsatisfactory performance can be issued where acceptable standards have not been met. The written confirmation of the warning will set out the performance issue(s); identify the improvement that is required and the timescale in which to make the necessary improvement. The warning confirmation will also identify any additional support and training to help close the performance gap and provide advice on the right of appeal. The individual will be advised that this constitutes the first stage of the performance management procedure.

A record of the warning will be kept on file and will be subject to regular review for the first 12 months to ascertain whether the required improvement has been made and sustained. The warning will remain on file and can be referred to within any 2 year period to ensure that satisfactory performance is maintained. This period may be extended up to 3 years where there has been a significant period of absence which has not allowed the employee to demonstrate their ability to sustain their improved performance.

However, in the unfortunate event of a further deterioration in performance or failure to achieve the required standard within the required timescale, the manager can move to the second stage of the formal process.

A **final written warning** can be issued if the performance issue is sufficiently serious; if unsatisfactory performance is longstanding with no or insufficient improvement towards meeting the required standards or if there is a failure to improve performance sufficiently whilst a prior warning is still current. This will give details of the improvement required and of the timescale to make this in. It will also warn that failure to improve may lead to dismissal or some other action short of dismissal. A copy of the final written warning will



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be kept by the line manager and again can be referenced within a 2 year period to ensure improved performance is maintained.

7. Stage 2 – possible outcomes of the performance review hearing

If there is a continued failure to improve performance, the outcome of the second stage of the procedure may be dismissal or some other action short of dismissal such as redeployment to a lower graded post.

The decision to dismiss with contractual notice will only be taken after a full examination of the case to date; the steps taken to assist the employee meet the required standard and any other mitigating factors. The panel will consist of a chair person with the relevant power to dismiss, a second panel member and an HR adviser. The employee will receive confirmation of the panel's decision in writing, giving the reasons for dismissal, within 5 working days of the hearing. The letter will also advise the date on which employment will terminate and outline the right of appeal.

If some action short of dismissal is decided, the employee will receive details of the issues; the action required to make the necessary improvement and will be warned that dismissal could result if there is no satisfactory, sustained improvement. Where redeployment has been recommended, the letter will confirm the details of the person who will support the search for alternative employment. The decision letter will also contain information about the right of appeal. Possible outcomes short of dismissal may include:

- Issue a further written/final warning.
- Extension of the monitoring period for a specified time
- no further action required
- redeployment
- undertake a risk assessment
- Assess whether there are reasonable adjustments required under the Equality Act 2010.



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Please note that if the confirmed outcome is demotion to a lower graded post where the employee agrees to take up such an appointment and a suitable post is available, [pay protection](#) will not be paid in these circumstances.

8. Appeals

All appeals against the issue of a warning or dismissal under the Performance Management procedure will be considered under the County Council's Appeals Procedure. See [Paragraph 8 – Section E3 – Disciplinary Procedure](#).