



PROCEDURE FOR DEALING WITH CASES OF UNSATISFACTORY PERFORMANCE

26th January 2021

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PREAMBLE

1. This procedure is separate from the procedure for probationary period assessments (detailed in the Managing New Employees Code) and applies to those employees whose performance has proved unsatisfactory after completion of a satisfactory probationary period. This procedure is designed to ensure that where unsatisfactory staff performance is identified, the employee is treated fairly and appropriate action to seek to resolve the problem is taken at an early stage. The purpose of such a procedure is also to ensure that the employee is given an opportunity to improve performance, having had additional training or guidance, as appropriate. Dismissal shall be a final recourse, only after any possibilities of improvement of performance has been considered. This procedure shall not apply to employees who have suffered an industrial injury or accident, or employees whose performance is affected as a result of ill health. This procedure applies only to direct employees of the Authority. The Authority may decide on alternative procedures to deal with cases of unsatisfactory performance by other appointed officers of the Authority, in line with lead borough arrangements, where appropriate.

Stage 1

2. Where a nominated officer responsible for staff supervision considers that an employee's performance is unsatisfactory for any reason, the officer shall arrange to interview the employee. In giving notice of the interview arrangements, the officer shall explain the reason for the meeting, and inform the employee that they may be accompanied at the interview by a Trade Union or other representative, and give the employee three days' notice to allow time to prepare themselves.
3. If the Chairman of the Authority believes the performance of the Clerk, Treasurer or General Manger to be unsatisfactory then they will interview the officer and, if performance does not improve, the matter will be referred to a sub-committee of four Authority members, one from each constituent council. The Chairman and the sub-committee will act in accordance with the procedures in this code, mutatis mutandis.
4. At the interview, the officer shall explain to the employee the reason for the meeting and examine the circumstances of the problem and give guidance on ways in which performance is to be improved.
5. The officer shall conclude this interview by explaining the action required and by which it is intended that the employee's performance will be improved and what

remedies might be appropriate, e.g. training or further guidance. The manager shall define the most important aspects for the development of the job, and settle, reasonably, measures for review of progress with the employee. The outcome of the interview will be confirmed by letter to the employee.

6. A review period shall be defined and a time limit to take required action settled. A period of three months is considered to be a suitable period.

Stage 2

7. On review, the improvement, or lack of improvement, of the employee's performance should be discussed with the employee. The reasons for any shortcomings, and the course of future action, shall be stated.
8. At this stage, if performance has proved satisfactory, no further reviews are required but monitoring should be considered to avoid further problems. If performance is still not satisfactory, the manager may permit another period for guidance to be given which should be concluded by a review interview. Where the manager has decided that the employee should be permitted only one further review period, this should be clearly pointed out to the employee at the interview. It should be made clear to the employee that if performance is not found to be satisfactory at the next review, the employee's case will be referred to the General Manager for consideration, and that an interview with the General Manager will then follow. This should be confirmed in writing.

Stage 3

9. Where a manager considers that an employee's performance continues to be unsatisfactory at the end of the review period, in spite of efforts at remedial action, the manager should refer the matter, with their report detailing the action taken, to the General Manager.
10. The General Manager should then arrange to interview the employee formally. At least five clear working days' notice should be given to the meeting, suitably explained so the employee understands what is intended and may prepare. The employee should be informed that they may be accompanied at the interview by a Trade Union or other representative.

11. At the interview, the General Manager should discuss with the employee the circumstances of the employee's unsatisfactory performance and the possible options available e.g. further training or guidance, early retirement etc.

Dismissal

12. The General Manager shall only consider dismissal, once satisfied that the options of further training and guidance have been fully explored. Where retraining is not considered feasible or appropriate, the General Manager shall conduct a dismissal hearing, giving at least five days' notice. The decision of the General Manager will be conveyed to the employee in writing. If the decision is for dismissal, the employee shall be entitled to appeal against the General Manager to the Clerk. Such appeal will be lodged within ten working days of the date on which the decision was delivered. In the case of such an appeal the Clerk shall conduct a hearing, giving at least five days' notice. The decision of the Clerk shall be conveyed to the employee in writing. If the decision is for dismissal, the employee shall be entitled to appeal against the decision of the Clerk to the Authority's Members. Such appeal shall be lodged within ten working days of the date on which the decision was delivered to the employee and shall be heard in accordance with the appended procedure.

Waiver of Time Limits

13. The parties may on occasions and by mutual agreement modify the time limits referred to in this procedure.

Appeal Rights

14. The appeal rights conveyed by this code are not intended to be substitution for, or prejudicial to, an employee's right of appeal to an Industrial Tribunal on a complaint of unfair dismissal. The Authority suggests that any aggrieved employee should first use the internal appeals machinery of this procedure fully before proceeding on such a complaint.

Appendix

Procedure for Appeal Hearings

1. Appeals should be heard within twelve working days from the day of receipt of a written notice of appeal stating the grounds of appeal. The employee shall be notified in writing of the date, time and place of hearing and provision for representation. The letter shall be sent by recorded delivery post, or delivered by hand, to the residence of the employee.
2. The appeal shall be heard with such advice as may be necessary as to procedure, and the requirements of employment law, with such further enquiry as may be necessary to establish the facts of the case or the grounds of appeal.
3. The General Manager shall report the circumstance of the case by written statement in the presence of the employee and the representative and may call witnesses as to the facts.
4. The employee or the representative shall then be given the opportunity to question the General Manager or any witnesses.
5. The Clerk or Members hearing the appeal shall then have the opportunity to question the General Manager or any witnesses.
6. The employee or the representative shall then put their case in the presence of the General Manager and may call witnesses.
7. The General Manager shall then have the opportunity to question the employee and their witnesses.
8. The Clerk or Members hearing the appeal shall then have the opportunity to question the employee and their witnesses.
9. All parties will then withdraw, except for the officer concerned and the employee's representative, who shall be invited to remain to assist in the consideration of the management and employee relations aspects of the case, following which they shall withdraw.
10. The Clerk, or Members, (as appropriate) hearing the appeal shall then consider the case in private. If it is necessary to recall any party to answer any questions, all the

parties shall be recalled. The Members shall determine their decision in all respects as they think fit on behalf of the Authority as employer.

11. All the parties shall then be recalled and informed of the decision.
12. The appeals decision shall be confirmed in writing by letter sent by recorded delivery post or by hand to the residence of the employee. The letter shall state the grounds on which the decision is based.
13. A hearing may be adjourned by the Members hearing the appeal to allow further evidence to be produced, or for any other purposes required by the particular circumstances.