



## PEOPLE DIRECTORATE

# MANAGING EMPLOYEE PERFORMANCE POLICY

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**Safety. Teamwork. Respect. Innovation.**

## VERSION HISTORY

Version	Change	Who	When
1.0	First version issued as Capability Policy and Procedure	Elinor Walton, HR Advisor	01/06/2016
2.0	Revised and re-issued as Managing Employee Performance Policy	Kate Doig, People Adviser	23/05/2023
3.0	<a href="#">Paragraph 13.3</a> – Addition to include Support Staff equivalent role to AC as minimum who can give any sanction at Stage 3 of process	Rachael Scott	19/03/2024

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## **1. POLICY STATEMENT**

### **1.1 Aims of Policy**

The aim of the Managing Employee Performance Policy is to set out the framework within which managers will support employees with the direction, development and support necessary to undertake their role effectively and efficiently to fulfil their contract of employment.

A work performance issue may arise when an employee is consistently unable to perform parts of their responsibilities or duties to a satisfactory standard. The aim of the Managing Employee Performance Policy is to ensure that fair and effective arrangements are in place for managing performance issues.

The Scottish Fire and Rescue Service (SFRS) has a duty to act fairly. The policy sets out the informal and formal procedures for managing performance. It identifies the key role of managers in supporting, coaching and developing staff to reach the expected standard of performance with an emphasis on resolving performance issues informally wherever possible.

## **2. SCOPE**

2.1 The policy applies to all SFRS employees.

2.2 The policy is used to manage and support employees where under performance has been identified as an issue. This may be due to an employees' inability to achieve the performance standards expected on work tasks or their inability to fulfil their role / training requirements.

### **3. DEFINITIONS**

#### **3.1 Performance Improvement Plan (PIP)**

A document used at the informal and formal stages of the Managing Employee Performance process which records areas where an employee is not reaching the required performance standard. It will also record the improvement required, the training and development provided to help the employee to improve their performance and the timescales in which the improvement is required.

#### **3.2 Employee Performance Management Meetings**

Formal employee performance management meetings are held when employees are endeavouring to perform their role effectively but not achieving the required standards.

### **4. LEGAL REQUIREMENTS**

4.1 The policy has been developed in accordance with the Advisory, Conciliation and Arbitration Service (ACAS) Code of Practice on Disciplinary and Grievance Procedures (2015) (“the Code”) and applies to how employers manage performance and attendance issues. The Code requires employers to notify employees in writing regarding conduct, performance and attendance issues, to carry out meetings and to provide employees with the right of appeal. The requirement for reasonable behaviour is also emphasised throughout the Code.

4.2 Performance matters will be treated in confidence at every stage of the procedure in accordance with the Code and the Data Protection Act (2018) and UK General Data Protection Regulation (UK GDPR).

4.3 Reasonable adjustments will be made in the operation of this procedure for employees who have disabilities. SFRS value the contribution all employees

bring to the Service and will, whenever possible, make reasonable adjustments to support employees with disabilities to perform their role effectively. Reasonable adjustments requested by employees will be considered and where appropriate will be implemented. Further advice can be sought from Wellbeing and People Advisers. For further information, see [Section 10](#).

## **5. RESPONSIBILITIES**

### **5.1 Employee Responsibilities**

Employees are required to be aware of the standards of performance expected of them and seek guidance from their line manager if unsure. They must also work with their line manager to comply with any agreed support measures that are put in place.

### **5.2 Manager Responsibilities**

Managers must ensure that employees are made aware of the standards of performance that are expected, and to provide advice, support, reasonable adjustments and training, where appropriate, to ensure that the required level of performance is attained and maintained. They must monitor employee performance on an ongoing basis and provide regular feedback, keeping appropriate confidential records of any actions that are taken in accordance with this policy.

Managers of uniformed employees must also refer to the [Uniformed Employees Performance Improvement Plan Management Arrangement](#), which provides information about the tailored support Training, Safety and Assurance (TSA) can provide for uniformed employees with the objective of resolving performance issues informally.

### **5.3 Performance Management Meeting Chair Responsibilities**

The Chair must set out the required standards the employee has been unable to meet, try and establish what is causing the under performance and why the measures taken so far have not led to improved performance.

Where appropriate, the Chair will discuss improvement targets and time scales for the next review meeting.

### **5.4 Appeal Panel Chair Responsibilities**

The Chair will explain the purpose and format of the appeal hearing and invite the employee to state their grounds for appeal. If new information emerges, it may be necessary to adjourn to allow further investigation. At the end of the hearing, the Chair will sum up the facts and advise that a decision will be made following full consideration of the evidence presented. The decision will be communicated to the employee in writing within 10 days of the appeal panel hearing.

For further information, see Section 10.5 of the [Manager's Handbook](#).

### **5.5 People Directorate Responsibilities**

The People Directorate will support managers in their understanding of the policy. They will provide advice, support and coaching to managers in identifying unsatisfactory performance, approaching discussions about unsatisfactory performance, and identifying support measures. They will guide and signpost to further specialist support as required, e.g. where there is a potential link between unsatisfactory performance and disability. Guidance can also be provided by the Talent Development team to identify appropriate training and development interventions to help employees to improve their performance.



Wellbeing provide support for the health and wellbeing of all employees, for information about the support available see the [Wellbeing site on iHub](#).

## **5.6 Role of Trade Unions**

Recognised Trade Union Representatives functions include consulting with managers and People Advisers on performance related issues, encouraging their members to comply with this policy and supporting employees at formal performance management meetings.

## **6. TIMESCALES**

- 6.1 Where an employee is unable to achieve the performance standards required of their role, it is expected that this will be managed and resolved promptly at the informal stage of the policy.
- 6.2 At the informal stage of the policy, as a general rule, employees will be given a timeframe of 1 to 4 months to improve, this is known as the review period. Thereafter, an employee's performance will be progressed to the formal stages of the policy.
- 6.3 There are 3 formal stages to the managing employee performance process and progression through these formal stages may take approximately 12 months in total. Review periods will be set at between 1 and 4 months, e.g. employee performance management meeting held in April, the review meeting will take place in July. These timescales are indicative and can be shortened or increased, depending on the circumstances of the individual case. It should be noted that this will be applied on a pro-rata basis for employees who are on fixed term or temporary contracts of less than 12 months. For further information see [Section 11](#).
- 6.4 When an employee is placed on a review period at any stage of the process, this will be considered live for a period of 12 months from the date of the meeting. Therefore, even where an employee's review period ends after a

period of 4 months, the outcome letter and performance improvement required remain 'live' for a period of 12 months. This is to ensure that, in situations where an employee's performance improves only to lapse soon after the review period expires, the manager can extend the action plan or move to the next stage of the process.

- 6.5 This process offers a structured approach for dealing with employee performance issues in a reasonable and fair way that affords an employee every opportunity to address and improve the issues being brought to their attention by management.

## **7. MISCONDUCT OR PERFORMANCE ISSUES**

- 7.1 Where an employee fails to achieve the performance standards expected of them, it is important to establish whether these are performance or conduct issues. Where there is clear evidence that the employee has wilfully failed to achieve the performance standards expected of them, this should be considered as 'misconduct' and dealt with under the [SFRS Disciplinary Policy](#). Where a fully competent uniformed employee is involved in a safety critical incident and this is deemed to be due to conduct rather than ability, the issue will be managed under the SFRS Disciplinary Policy. If the incident has occurred due to poor performance, the employee will be supported under the TSA [Uniformed Employees Performance Improvement Plan Management Arrangement](#). If this support does not enable the employee to perform their role safely and to the required standard, they will be managed under the formal stages of the Managing Employee Performance Policy.

- 7.2 Where an employee is willing to undertake what is required of them but has been unable to reach the required standard, then their performance will be reviewed in accordance with the Managing Employee Performance Policy.

Occasionally, there may be combined issues of performance and misconduct and so it may be that both the Disciplinary and Performance

Management Procedures may be used separately or combined, depending on individual cases. Further advice may be sought from a People Adviser.

7.3 Employees will not be dismissed for performance reasons without previously being issued with a review period, an outcome letter and a PIP. Employees will be provided with support and development to help them to improve their performance.

## **8. IDENTIFYING PERFORMANCE ISSUES**

8.1 Potential unsatisfactory performance may be identified in various ways including:

- Direct observation by the line manager;
- During a regular 1 to 1 meeting;
- Review of written and electronic documentation completed by the employee;
- Complaints (both formal and informal);
- Failure to meet deadlines or expected outcomes

8.2 Where a pattern of unsatisfactory performance has been identified, the line manager should consider what may be causing this, before deciding if it is appropriate to initiate the performance management process. For further information, refer to the [Manager's Handbook](#).

8.3 Where the line manager concludes that the issues identified cannot be addressed through normal support and guidance, the Managing Employee Performance process should be initiated.

## **9. INFORMAL STAGE**

9.1 Informal meetings will be arranged with the employee, these should be a two-way conversation to identify ways to support employees to enable them

to improve their performance, to achieve and maintain the standards expected.

Managers must refer to the [Manager's Handbook](#) for guidance on the steps they need to take to help employees to improve their performance.

- 9.2 If there are underlying reasons, such as a disability or health related issues, the manager must make a management referral to Wellbeing to identify what reasonable adjustments may be required to support the employee.

## **10. EMPLOYEES WITH DISABILITIES**

- 10.1 Consideration will be given to whether poor performance may be related to a disability (physical or mental health condition) and, if so, whether there are reasonable adjustments that could be made to working arrangements, including changing an employee's duties or providing additional equipment or training.

For further guidance on providing support to an employee with a disability, please refer to [Guide to Reasonable Adjustments and Supporting Staff with a Disability \(We Are Positive about Disability\)](#). Managers must seek guidance from a People Adviser in such circumstances.

## **11. FORMAL STAGE 1**

- 11.1 Where an employee fails to improve despite the support provided and action(s) taken at the informal stage of the process, the manager may decide to progress to a Stage 1 Performance Management meeting. Employees will be provided with a minimum of 7 days' written notice of the meeting, (refer to the [Manager's Handbook](#) for template letters.)
- 11.2 Employees may choose to be accompanied at the meeting by a Trade Union Representative or a colleague, a People Adviser will also attend the meeting.

11.3 The purpose of a Stage 1 Performance Management meeting is to:

- Review progress during the monitoring period, the support provided and the shortfall in performance and agree (where practicable) the PIP and further targets;
- Determine any further training and support that is required and can be provided;
- Establish a monitoring period (between 1 and 4 months), however each case will be considered on its' own merits. Where the performance issue has a significant impact on service delivery, is safety critical or the employee is on a fixed term or temporary contract, managers have discretion to reduce the length of the monitoring period and guidance should be sought from a People Adviser regarding this;
- Set dates for further review meetings;
- Advise the employee that failure to achieve an acceptable level of improvement in performance at the end of the review period may result in progressing to Stage 2 of the procedure.

11.4 The outcome of the Stage 1 Performance Management meeting will be confirmed in writing, following the meeting. A copy of the updated PIP will be issued with the letter.

Review meetings should take place between the manager and employee during the monitoring period to review progress, which should be documented on the PIP. Regular feedback should be given to the employee on an ad hoc basis and at review meetings and a record kept simultaneously.

11.5 At the end of the review period, the manager will meet the employee to discuss progress. The employee will either be advised that they have reached, or are shortly expected to reach, the required standard of performance and that no further formal action is necessary. The manager will confirm this decision in writing.

- 11.6 Where the required improvements have not been achieved the employee will be advised accordingly. The PIP and all other relevant documentation will be passed to a more senior manager, who will review the documentation and determine if the case should progress to Stage 2 of the procedure.
- 11.7 Managers must refer to the [Manager's Handbook](#) on the issues to consider regarding the structure and procedural matters relating to performance management meetings.

## **12. FORMAL STAGE 2**

- 12.1 Where the decision is taken to progress to Stage 2, the employee will be advised of the meeting at the earliest possible stage. Managers should give more than 7 days' written notice, particularly where it is expected that reasonable preparation time is required for this level of meeting. (see [Manager's Handbook](#) for template letters.)
- 12.2 Employees may choose to be accompanied at the meeting by a Trade Union Representative or a colleague. A People Adviser will also attend the meeting.
- 12.3 The purpose of the Stage 2 Performance Management meeting is to:
- Review progress during the monitoring period, the support provided and the shortfall in performance;
  - Consider any extenuating circumstances that may be affecting the employee's performance;
  - Establish a monitoring period (between 1 and 4 months), however each case will be considered on its own merits. Where the performance issue has a significant impact on service delivery, is safety critical or the employee is on a fixed term or temporary contract, managers have discretion to reduce the

length of the monitoring period and should seek guidance from a People Adviser regarding this;

- Set dates for further review meetings;
- Agree (where practicable) the PIP and further targets;
- Advise the employee that failure to achieve an acceptable level of improvement in performance by the end of the review period may result in progressing to a Stage 2 Performance Management meeting of the procedure.

12.4 The outcome of the Stage 2 Performance Management meeting will be confirmed in writing following the meeting. A copy of the updated PIP will be issued with the letter.

Review meetings should take place between the manager and employer during the monitoring period to review progress, which should be documented on the PIP. Regular feedback should be given to the employee on an ad hoc basis and at review meetings and a record kept simultaneously.

12.5 At the end of the review period, the manager will meet the employee to discuss progress. The employee will either be advised that they have reached, or are shortly expected to reach, the required standard of performance and that no further formal action is necessary. The manager will confirm this decision in writing.

12.6 Where the required improvements have not been achieved the employee will be advised accordingly. The PIP and all other relevant documentation will be passed to a more senior manager, who will review the documentation and determine if the case should progress to Stage 3 of the procedure.

12.7 Managers should refer to the Manager's Handbook on the issues to consider regarding the structure and procedural matters relating to performance management meetings.

### 13. FORMAL STAGE 3

13.1 A Stage 3 Meeting will be held if there is evidence that:

- An employee's performance has not improved sufficiently within the review period set out in the Stage 2 outcome letter and PIP issued following the Stage 2 Meeting;

13.2 Employees may choose to be accompanied at the meeting by a Trade Union Representative or a colleague. A People Adviser will also attend the meeting.

13.3 Where the decision is taken to progress to Stage 3, the employee will be advised of the meeting at the earliest possible stage. Managers should give more than 10 days' written notice, particularly where it is expected that reasonable preparation time is required for this level of meeting. (see [Manager's Handbook](#) for template letters.)

Stage 3 Capability meetings can only be Chaired by an Area Commander or Support Staff equivalent (Grade 10), Head of Function or above.

13.4 The possible outcomes of a Stage 3 meeting may include:

- A further period over which the required improvements can be achieved;
- Consideration of redeployment to a suitable alternative post (where appropriate and subject to availability), including demotion to a lower graded role without pay protection or reimbursement of excess travel costs. In which case, the meeting should be adjourned and redeployment options explored. The employee must be advised at this stage that if no suitable alternative employment is secured during the redeployment period, their contract of employment could be terminated on the grounds of performance



capability. The employee's trade union representative (where applicable) will be consulted and kept up to date regarding progress on this matter;

- Dismissal on the grounds of performance capability where it is agreed the standards of performance are unlikely to be met by the employee within a reasonable period and redeployment is not an option, (for outcome letter, see [Manager's Handbook](#)).

13.5 Any decision to dismiss an employee on the grounds of performance capability will only be taken as a last resort and when:

- The employee has been formally advised that failure to achieve a satisfactory performance in their role could lead to dismissal;
- The employee and trade union representative (if applicable) have had an opportunity to explain the reasons why the employee is underperforming and has been unable to improve following review period(s), along with any extenuating circumstances are considered fully by management;
- Management has explained the requirement for the employee to achieve a satisfactory performance and provided all reasonable support / assistance to help them improve;
- Where applicable, reasonable adjustments to the post have been considered, as required under the Equality Act 2010;
- The option of suitable alternative employment, where appropriate and subject to availability, has been fully considered / explored.

13.6 Employees who are dismissed on the grounds of performance capability will be provided with contractual notice or payment in lieu of notice.

## 14. TRAINING PERIODS AND NEW EMPLOYEES

14.1 Trainee Firefighters attend an initial 14-week training programme. Contractual documentation stipulates that continued employment is subject to successful completion of the initial training requirements within a reasonable timeframe. Separate arrangements are in place to monitor and

assess an employee throughout this initial training phase. Failure to successfully complete all elements of the initial training programme result in employment being terminated without recourse to any or all of the formal stages of this policy.

- 14.2 Where an employee joins SFRS and it is apparent in the first 3 to 6 months of employment that, although they have been provided with support, coaching and training, they are unable to perform at the required standard or do not have the fundamental attributes required, the managing employee performance process will be initiated. In doing so, managers must apply all of the principles of the Managing Employee Performance Policy. However, the duration of the review periods can be reduced according to the circumstances of the case, including the risk the employee's performance poses and their demonstrated capacity to address their development needs within a reasonable timeframe.

## **15. APPEALS PROCESS**

- 15.1 Employees only have the right to appeal at Stage 3 of the procedure.

If an employee feels that the decision taken under Stage 3 of this procedure is unfair, then they may appeal in writing, stating the grounds of appeal, to the Head of People within 7 days of the date on which they were informed in writing of the decision. Grounds of appeal must include the following:

- New evidence has come to light since the meeting which may have an impact on the decision;
- Procedural defect;
- The decision to demote to a role at a lower grade or to dismiss was too severe in the circumstances.

15.2 There are two types of appeal:

The first type of appeal is against action short of dismissal, e.g. demotion to a role at a lower grade, and will be chaired by a more senior manager than that who chaired the Stage 3 Performance Management meeting.

The second type is an appeal against a dismissal. Any appeal against a dismissal shall be heard by a panel chaired by a member of the Strategic Leadership Team (SLT), supported by a second member of SLT and a Board member of the People Committee. A People Manager will be in attendance to provide professional advice to the panel.

15.3 Appeals against a dismissal involving a member of SLT shall be heard by a special committee, comprising members of the People Committee or a designated independent panel. Further guidance in this regard will be provided by a People Manager.

15.4 If an employee chooses to appeal against dismissal, the date on which dismissal takes effect will not be delayed pending the outcome of the appeal. However, if the appeal is successful, the employee will be reinstated with no loss of continuity of service or pay.

15.5 Following the appeal meeting, the following outcomes may be confirmed:

- Uphold the original decision;
- Revoke the original decision entirely;
- Substitute a different outcome, e.g. extend a PIP.

15.6 The employee will be informed in writing of the final decision as soon as possible, usually within 7 days of the appeal meeting. There will be no further right of internal appeal.

## **16. MONITORING AND REVIEW**

### **16.1 Monitoring and Record Keeping**

SFRS is committed to evaluating the effectiveness of its activities and operations, and meeting its statutory obligations for monitoring. To do this, we will:

- Create and capture necessary data to demonstrate evidence, accountability and information about our decisions and activities and the effectiveness of policies, procedures and processes;
- Maintain securely and preserve access to records, as long as they are required to support SFRS operations, in accordance with the [SFRS Records Retention Schedule](#);
- Meet legal record-keeping requirements, including the Data Protection Act 2018 and the Freedom of Information (Scotland) Act 2002, and confidentially destroy those records as soon as they are no longer required.

### **16.2 Privacy Statement**

SFRS processes personal data collected as part of this Managing Employee Performance Policy in accordance with the Data Protection Act 2018 and UK General Data Protection Regulation (UK GDPR). In particular, data collected as part of this policy is held securely and accessed by and disclosed to individuals, only for the purposes of managing employee performance. In addition, Data Protection Impact Assessments are carried out, where necessary, for all new and revised policies, involving the processing of personal data.

### **16.3 Consultation**

This policy has been developed following full consultation with relevant stakeholders and representative bodies. It has been agreed by the relevant

SFRS Boards / Committees who provide strategic advice and advice on matters affecting employees, whilst ensuring it supports the strategic aims of the SFRS.

#### **16.4 Policy Review**

The policy will be subject to update and review as necessary by the People Directorate, at no more than five yearly intervals or earlier should any relevant legislative, precedent, judgement, operational review or organisational changes occur prior to that date.

#### **17. EQUALITY**

The equality issues associated with this policy have been considered and are detailed within the [Equality Impact Assessment](#), to which interested parties are directed for associated equality issues, both directly and indirectly relevant to this policy.

#### **18. ASSOCIATED DOCUMENTS**

[Appraisal Policy and Procedure](#)

[Attendance Management Policy](#)

[Disciplinary Policy and Procedure](#)

[Equality Impact Assessment – Managing Employee Performance Policy](#)

[Guide to Reasonable Adjustments and Supporting Staff with a Disability \(We Are Positive about Disability\)](#)

[Managing Employee Performance Manager's Handbook](#)

[Records Retention Schedule](#)

[Redeployment Policy](#)

[Uniformed Employees Performance Improvement Plan Management Arrangement](#)

[ACAS Code of Practice on Disciplinary and Grievance Procedures 2015](#)

[Data Protection Act 2018](#)

[Equality Act 2010](#)

[Freedom of Information \(Scotland\) Act 2002](#)

[General Data Protection Regulation 2018](#)