



Capability Policy and Procedure

Managing Under-Performance

DATE CREATED	6 October 2023	DATE OF NEXT REVIEW	6 October 2026
POLICY OWNER(S)	Director of Human Resources & Communications		
DESIGNATION	Executive Team		

Purpose of policy	To outline a clear and transparent process for managing staff who are under-performing, with the aim of improving an individual's performance to the required level.
Intended audience	All staff
Links to other policies	Equal Opportunities Policy Sickness Management Policies and Ill Health Capability Disciplinary Policy

St Elizabeth's Centre
Performance Capability Policy and Procedure

1.0 Introduction

1.1 At St. Elizabeth's, we expect all employees to achieve a satisfactory level of performance and to carry out their duties to the standard required. It is important, therefore, that employees understand their obligations and rights regarding this aspect of their employment. This procedure will be followed if an employee's performance is considered unsatisfactory. We are committed to fostering and encouraging good employee performance and will deal sensitively, consistently and constructively with any employee whose standards fall to an unsatisfactory level. Our values and behaviours framework outlines the types of behaviours that we expect. We will use this as an indicator to help staff and managers understand the standards of performance that are expected.

1.2 This policy applies to all of St Elizabeth's staff who have successfully completed their probation period and establishes guidelines for managers and staff in relation to the management of under-performance.

This policy is designed to ensure that cases of under-performance are dealt with consistently and fairly, with the prime objective of improving an individual's performance to the required level.

All managers have a responsibility for setting realistic and measurable standards of performance, for explaining these standards carefully to members of staff and for supporting staff to achieve the standards set.

All new members of staff will have their job explained to them on arrival at St Elizabeth's Centre and will be given a copy of, or referred to, any written guidance, that exists in relation to their job role and area of work and will be given appropriate training and support to become familiar with it.

Staff will also be made aware of the standards expected of them and where expectations change and evolve over time, managers have a responsibility to inform staff of these changes.

All members of staff have a contractual responsibility to perform their duties to an acceptable standard and they should be given all reasonable support and encouragement to do so.

This policy is aimed at situations where an employee does not have the level of competence and ability to do their job, or to do it in the right way. If an individual has the skills to do their job but chooses not to utilise those skills, this is considered to be misconduct and would be managed through St. Elizabeth's disciplinary processes.

Refusal to co-operate with the management of performance is considered to be a disciplinary matter. Failure to meet the standards expected through deliberate refusal to engage is also a disciplinary matter and not a performance issue.

Policy Aim

The aim of this policy and procedure is:

- to ensure that managers clearly identify to employees the standards of performance expected of them and to provide practical support, training and encouragement to bring about any necessary improvements;
- to provide guidance to managers on how to manage unsatisfactory performance in a fair and consistent way; and
- to outline the consequences and sanctions that will be used to address consistent unsatisfactory performance.

2.0 General guidance

When dealing with performance issues, managers need to make a clear distinction between a situation that may not be of the employee's own making – such as lack of training or a genuine lack of ability to undertake a particular job – and circumstances that may require disciplinary action. Where the problem is one of genuine incapability (poor performance), the procedures set out in this document should be followed.

The following situations are examples of issues that would normally be dealt with using this policy:

- failure to meet personal objectives and expectations / requirements of the post despite the relevant support and training in place;
- low productivity or a lower output of work than is expected;
- failure to meet the required standards of work or performance expected in a role;
- inadequate skills or knowledge; or

- inability to apply skills and knowledge in the workplace
- *failure to achieve specified qualifications that are required to undertake the duties of the post**

** Where there is a requirement to undertake a professional qualification for the role, separate timeframes and monitoring processes will be in place. Support will in place for individuals undertaking professional qualification, however failure to complete within the statutory timeframe despite this support, will be managed in line with St. Elizabeth's disciplinary procedures.*

Issues relating to an employee's conduct should be dealt with under St. Elizabeth's disciplinary procedure.

4.0 General responsibilities

4.1 Managers

Managers will provide employees with a comprehensive local induction programme regarding their work area, ensuring that:

- they understand the aims of their role/team/service area;
- they are aware of the standards of performance expected of them; and
- their personal objectives and outcomes are agreed and monitored.

Managers will ensure that all new starters are supported, trained and monitored in their delivery of their role during their 6-month probation period.

Managers must also make sure that every employee has an accurate and up-to-date job description. Where an employee's level of performance is considered to be unsatisfactory, their line manager should review the situation with the employee, identify the gap between their actual and required performance, and provide or arrange training and support as appropriate. The line manager will also set review dates and monitor the employee's progress accordingly.

4.2 Employees

Employees should ensure that their level of performance meets the required standard and that, where appropriate, they take advantage of any training or support identified as necessary for the satisfactory performance of their job.

Employees should attend and complete all mandatory training that has been identified as required against their job role. If training is mandatory, employees must attend these sessions. Failure to do so, may be deemed to be a disciplinary issue.

Employees should ensure that they bring to their line manager's attention any areas of work that they are finding difficult or need support with.

4.3 Employee Relations Team

The Employee Relations Team is responsible for ensuring managers are provided with the appropriate advice and guidance on the use of these procedures. When dealing with performance issues, managers should speak to the ER team as soon as possible to ensure that each case is dealt with correctly, and that a fair and consistent approach is applied to all employees across St. Elizabeth's.

A member of the ER team will support at all formal stages of the procedures set out in this policy.

5.0 Right to be accompanied

Employees have the right to be accompanied at any formal stages of the procedure. This can be a work colleague or a trade union representative. You are not able to be accompanied by anyone else (such as a spouse, partner, other family member or legal representative) unless there are special circumstances and this has been agreed in advance by the Manager and HR.

6.0 Performance

6.1 Reducing the risk of poor performance

Employees and their manager should work together to minimise the risk of poor performance during their employment. Every effort should be made to ensure employees are clear about what is expected in their role and that they have the necessary support and training in place to help them achieve this. Regular supervisions and formal appraisal processes should be undertaken to ensure a continued level of satisfactory performance. Any inadequate levels of performance should be identified as early as possible to ensure that these are addressed and that they do not impact on the team and service provision.

7.0 Dealing with poor performance

Before addressing any performance issue, managers should:

- be clear and realistic about the performance and output standards they expect;
- discuss these standards with the employee concerned; and
- identify any gaps between actual and expected performance that show the employee is not performing to the expected standard.

The first approach with any performance issue is to try to resolve the problem informally with the employee (see section 8 below). If the informal approach does not result in an improvement in the employee's performance over an agreed period of time, the line manager will need to follow the formal stages of the procedure.

8.0 Informal Stage - Stage 1

Whenever possible, an informal approach should be the first step to helping, guiding or advising employees to improve their performance. Managers should encourage employees to bring any concerns to their attention. The purpose of any informal meeting between you and your line manager is to:

- identify and examine any areas of concern;
- give the individual the opportunity to explain and discuss their under-performance;
- ensure that future expectations are clearly understood;
- develop and agree a performance improvement plan (PIP) to achieve any improvements identified. This may include additional training, the provision of a mentor/peer support or coaching or other ongoing support to the individual; and,
- set a reasonable time frame within which improvement is expected and arrange a further meeting at the end of this time to review the situation. When establishing “reasonable timescales” for improvement, managers must consider the complexity of the tasks involved in relation to the qualifications and experience of the individual.

Your line manager should ensure that your identified training needs are met as quickly as possible and that the action plan is reviewed and monitored within an agreed timescale.

In circumstances where an employee’s health may fall within the provisions of the Equality Act, consideration will be given to make reasonable adjustments in order to support the individual to meet performance expectations. For more advice, contact the ER Team.

Managers should keep a written note of the meeting (eg, a diary note). An action plan will be agreed between the employee and manager, documented and retained by both parties for future reference and discussion.

When discussing under-performance managers must be specific about their concerns and must demonstrate evidence and/or give examples to support their opinion.

9.0 Formal Stages - Stage 2

If there is continued unsatisfactory performance or where a first instance of unsatisfactory performance is sufficiently serious to warrant formal action (e.g. where health and safety is at risk or significant costs or other liabilities are involved), formal stages of this procedure will need to be followed.

9.1 First formal performance capability hearing

A first formal performance capability hearing will be arranged with the employee to discuss their performance. Employees will be notified in advance in writing, of the proposed date and time at least five days beforehand.

9.1.1 Invite to a First formal performance capability hearing

The letter will outline the concerns raised in relation to an employee's performance, any shortfalls and the standards of performance expected. Where informal processes have been undertaken Performance Improvement Plan* and progress to date will be included as supporting evidence for discussion at the meeting. Employees will be advised of who will be chairing the meeting and of their right to be accompanied. Employees will also be asked to share in advance, any documents or evidence that they intent to refer to or rely on in the formal meeting.

**A template Performance Improvement Plan (PIP) can be found in Appendix A*

Where possible a **First Formal Performance Capability hearing** will be set up within 7 calendar days after informal processes have ended, or in the case of an immediate move to formal processes, within 7 calendar days of the concerns being raised by the manager and discussed with the individual. Individuals will have the right to be accompanied to all formal meetings either by a Trade Union representative or a work colleague.

9.1.2 Purpose of the formal hearing

The purpose of the first formal performance capability hearing is to:

- discuss (ongoing) concerns relating to the individual's performance;
- give the employee an opportunity to explain their unsatisfactory performance;
- review the concerns and where informal processes have been undertaken, consider whether a decision to issue a formal disciplinary sanction is appropriate* and to set and agree further improvement targets and a timescale for improvement, or
- If no informal processes have been undertaken and concerns are being heard formally for the first time, improvement targets will be set, and;
- to identify any additional training or support that could reasonably be provided to the individual to enable them to reach the required standard of performance.

If a sanction is given and further targets set, through the Performance Improvement Plan, regular monitoring meetings, including a final review meeting at the end of the agreed monitoring period will be agreed and put in place.

**usually this will be a first level sanction, a first written warning.*

9.1.3 Issuing a formal disciplinary sanction

Before taking a decision to issue an employee with a disciplinary sanction, the Manager hearing the performance capability case, will consider the following:

- the nature of the performance concerns;
- an individual's employment record;
- the information presented at the meeting;

- the efforts an individual may have taken to try to improve their performance, either during informal stages or since a previous warning was issued;
- the extent to which an individual has contributed to the situation, for example, their reluctance to undertake any training identified;
- The existence of a current warning in relation to performance concerns;
- If informal capability processes have been undertaken, why the individual has failed to achieve the necessary improvements identified.

If informal processes have failed to bring about an improvement in an employee's performance (capability), despite the necessary support and training being put in place, **a First Written Warning** may be issued at this stage.

A first written warning, notifies an employee that their performance is of concern and that improvements are needed. Employees will be notified in writing of this decision and the letter will outline the following:

- The reason for the warning;
- The detail of the review period;
- The standard of performance an individual is expected to demonstrate;
- Any training or additional support that is to be put in place to support an individual to achieve these goals;
- The consequence of an individual failing to meet these improvements and
- An individual's right of appeal against this sanction.

Employees will also be advised of how long the first written warning will remain on their file. This will be for a period of 12 months after which it may be disregarded if satisfactory improvements are seen.

Managers can in exceptional circumstances extend this to 18 months, where an individual is absent from work during this period and unable to meet the required improvement timescales. Advice should be sought from the ER team if a manager is considering an extension.

At any time during the monitoring period, managers can refer an individual to a further formal performance capability hearing, where they feel that sufficient progress is not being made against targets set. Should this be the case, **a Second Formal Performance Capability hearing** will be held in line with the steps above.

If following this Second Formal Performance Capability hearing, there is evidence and discussion to support the fact that progress has not been made despite reasonable training and support being put in place, a further disciplinary sanction of **a Final Written Warning** may be issued.

Where a Final Written Warning has been issued, further targets for improvement will be outlined and agreed through a Performance Improvement Plan. A final written warning will remain on file for a period of 24 months after which it may be disregarded if satisfactory improvements are seen.

At any time during the monitoring period, managers can refer an individual to a Final Formal Performance Capability hearing, where they feel that sufficient progress is not being made against targets set. Should this be the case, individuals will be invited to this meeting as outlined above and be made aware that continued failure to meet the required standard of performance in their role, may result in the termination of their employment with St. Elizabeth's.

9.1.4 Improvements in performance

Where improvements are seen and an individual reaches the required level of performance, informal/formal processes will be brought to a close. Where a formal sanction is in place this will remain in place until the warning period has expired to ensure that consistency of performance is in place.

10.0 Ill-health / Poor Attendance

- 10.1 An individual's capability to carry out their role to the expected standard may be affected by their health and their attendance record. Managers must bear in mind the provisions of the Equality Act, in particular the obligation to make reasonable adjustments when dealing with employees whose health condition may fall under the Equality Act.
- 10.2 The procedure for managing long-term periods of sickness absence and ill health capability is set out in full in the [Long Term Sickness Absence Policy](#).
- 10.3 The procedure for managing short-term periods of sickness absence is set out in St Elizabeth's [Short Term Sickness Absence Policy](#).

11.0 Right of Appeal

- 11.1 An individual has the right to appeal against any formal action taken against them in line with this policy at any stage of the formal process. Should the employee wish to appeal they must lodge their appeal in writing to the Director of HR & Communications, within 7 calendar days of the date of receipt of written confirmation of the action taken against them, stating their grounds for appeal.
- 11.2 All appeals will be formally acknowledged in writing and an Appeal hearing set up within a reasonable timeframe thereafter.
- 11.3 The appeal will be heard by a senior manager who will not previously have been involved in the case. The appeal hearing will take into account any new evidence that either party may present and consider its relevance to the sanction imposed.

11.4 Where an appeal is upheld, a decision will be taken as to whether any formal sanction issued is to be lessened or withdrawn.

This policy is a non-contractual document and will be updated as required and in line with any legislative changes.

