

# Supporting Performance Policy and Procedure

This policy sets out the process for reporting, investigating and managing employees where there is a need to improve performance related to capability.

**Key words:** Supporting Performance, Poor Performance, Capability

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## SUMMARY & AIM

This procedure sets out a fair and effective framework for dealing promptly with situations or circumstances in which an employee does not meet the required performance standards.

One of the primary aims of the procedure is to encourage and support a permanent improvement in the employee's work performance. It is also designed to ensure that employees are treated equitably, fairly and consistently.

Every reasonable effort should be made to identify the reasons for the need to improve performance, including whether the employee is facing difficulties at work or at home which could have a bearing on the situation and their willingness or ability to work to acceptable standards.

## KEY REQUIREMENTS

In cases where the need to improve performance has been identified, managers should work together with the employee to support resolving the issues informally through regular supervision, meetings, training and mentoring, shadowing etc. Having assessed the situation, the line manager should discuss and seek the agreement of the employee to an individualised action plan to achieve the improvements in performance that are expected.

The action plan should be recorded using the template provided in appendix 1.

Where all reasonable support and adjustments have been considered and the employee has not achieved the improvements required, the formal process will be invoked. The formal process can be invoked where an informal work performance action plan has previously been signed off if the same issues arise.

The stages of this procedure and the range of actions are:

- Informal Stage - Informal Work Performance Action Plan
- Stage 1 Formal Performance Review Meeting
- Stage 2 Formal Performance Review Meeting
- Stage 3 Final Performance Review Meeting (panel hearing).

## TARGET AUDIENCE:

This policy applies to all staff directly employed by the Trust. It does not apply to bank or agency workers or the staff of contractors. The sickness absence of staff on honorary contracts should be managed in conjunction with the employing organisation.

## TRAINING

Training is provided to new managers and refresher training for experienced managers.

## 1.0 Quick look summary

Please note that this is designed to act as a quick reference guide only and is not intended to replace the need to read the full policy. This policy provides a framework for managers to use when supporting performance. It aims to support employees in maintaining the required standards of performance and to enable managers to follow a fair and consistent process where employees fall below the required standards for reasons of capability.

### 1.1 Version control and summary of changes

Version number	Date	Comments (description change and amendments)
1	12/04/13	9.3.4 amended worded to replace CRB with DBS.
2	08/06/15	Changed name of stages so that 'informal stage' is now 'stage 1'.
3	08/06/15	Removed reference to bank workers.
4	04/12/15	Replace PDR with Appraisal.
5	04/12/15	Addition to paragraph 2.2 to emphasise the need to deal with issues in a timely manner. 'Issues should be raised with employees through their usual regular supervision/contact meetings but in any case at the earliest available opportunity.'
6	04/12/15	New section added 4.9 Managers responsibilities Managers will be responsible for: <ul style="list-style-type: none"> <li>• Holding regular supervision/contact meetings with employees</li> <li>• Ensuring that any concerns are discussed with employees at the earliest opportunity</li> <li>• Ensuring that support identified between the manager and employees member is put into place with the minimum of delay</li> <li>• Following up with employees any concerns to ensure that the required level of performance is achieved</li> <li>• Accessing their own supervision and suitable training e.g. health conversations to assist in addressing issues with their employees.</li> </ul>
7	04/12/15	Timescale for appeals added into new section 8.6.16.
8	04/12/15	Section 14 relating to references has been removed as it referred to the policies of former LPT, Leicester City PCT and Leicestershire County and Rutland PCT.
8	04/12/15	Change made in section 8.6.13 from recorded delivery to first class mail.
8.1	10/06/16	<b>Amended Appendix 2: Levels of Authority for Formal Action to be taken under within Performance Management Policy and Procedure</b> Panel composition: Added category of employees 'Band 8c or above' and removed and replaced Non-Executive Director on appeal panels for 'All other employees'.
8.2	December 2016	<b>Amended Paragraph 8.6.4, 8.8.5; Digital Recordings</b> For reasons of Information Governance removed references to copies of digital recordings being made available to employees on request. Changed to <b>employees will be able to listen to the digital recording on request</b> if there is a dispute about the contents of the notes.
8.3	18/4/17	<b>Amended Appendix 2: Levels of Authority for Formal Action to be taken under within Performance Management Policy and Procedure</b>

		<p><b>Note 4 – change to allow stage 4 panel to re-convene:</b> The panel should be independent i.e. no individual on the panel should have been involved with the case under consideration or in any decision making in relation to the case at previous stages of the policy. However in some circumstances an outcome of a stage 4 panel may be to arrange to re-convene the same panel at stage 4.</p>
8.4	29/8/18	<p><b>Section 4.9 ‘managers responsibilities moved into section 4.4 which was also ‘managers responsibilities’</b> Added in reference to Trust’s Reasonable Adjustment Policy for guidance.</p>
8.4	29/8/18	<p><b>Scope 5.1</b> Added that policy does not apply to those on probation period – refer to Trust Probation Policy. Added the following to scope to clarify process for poor performance due to underlying health conditions and disability: <b>5.2</b> This procedure also applies to employees whose poor performance in their role is due to an underlying health condition or a disability however any time off due to related sickness absence will be managed under the Management of Ill Health Policy and Procedure.</p>
8.4	29/8/18	<p>Added the following to clarify application of the procedure for poor performance due to underlying health conditions and disability: <b>6.2</b> Where ill health or disability is an over-riding factor in causing poor performance, managers should also make reasonable adjustments to support the employee to make improvements. This may involve gaining advice from Occupational Health or other agencies such as Access to Work or Remploy. However, where frequent absences impact on the employee’s ability to perform both this procedure and the Management of Ill Health Policy and Procedure may be invoked.</p>
8.4	29/8/18	<p>Addition of <b>Appendix 2</b> Flowchart of Performance Management Stages.</p>
8.4	24/10/18	<p><b>Appendix 1</b> – added increment date and appraisal date to Action Plan.</p>
8.4	24/10/18	<p>Addition of <b>Appendix 6</b> Privacy Assessment.</p>
8.4	2/01/19	<p><b>8.6.12</b> If the employee is to be dismissed this will be with notice or in most cases usually with pay in lieu of notice.</p>
8.4	2/01/19	<p><b>2.6</b> Consideration should be given to any support that employees might require with stress related issues, including completion of a stress risk assessment to help to identify appropriate support.</p>
8.4	8/01/19	<p>Change title of policy from Performance Management to Supporting Performance.</p>
8.5	03/2022	<p>Updated reference to Appraisal policy and emphasis on support and informal resolution. Amended wording from poor performance to need to improve performance where appropriate throughout. Amended stages to Informal, Stage 1, Stage 2 and Stage 3 (Panel) to make clear distinction between informal support and formal stage process. 4.4 added managers responsibility to ensure job descriptions are regularly reviewed to accurately reflect the role. 4.5 added employees responsibility to be proactive in identifying development</p>

		6.2 added to explore where there is possible disability and offer support e.g. dyslexia testing. It may also be relevant to explore other forms of support, e.g. signposting support available for symptoms of the menopause.
9.0	12/2024	<p>2.6 Reference to Stress Management Policy added. Additional information added about health passport, carers passport, staff networks and Access to Work.</p> <p>4.4 Additional information added into managers responsibilities about underlying health conditions and caring responsibilities.</p> <p>4.5 added to employees responsibilities that they are ensuring they are having 121 meetings/supervisions to support development and they are attending and participating in annual appraisals and relevant appraisal training to discuss current performance and future development.</p> <p>7.2.1 Added summary of the stages and explanation of the process.</p> <p>7.3.7 Added when developing an action plan to consider advice from OH, H&amp;S, Access to Work and ensure regular support is in place.</p> <p>7.4.5 and 7.5.5 Changed from manual notes of meeting to digital recording (and letter to confirm outcome). The recording will be stored securely in line with the Trust's Information Lifecycle and Record Management Policy. Access to the recording may be requested if the written summary of the meeting contained in the outcome letter is not accepted as an accurate reflection of the meeting. If transcribed, the recording will be deleted and the transcription will act as the record.</p> <p>7.6.5 Changed notice of panel from 10 days to 15 days.</p> <p>7.7.7 Added that trial period can be extended up to 12 weeks.</p> <p>7.7.8 Added that a meeting must take place 5 days before the end of the trial or redeployment period.</p> <p>Appendix 1 – added column to summarise any adjustments needed, if any OH or Access to Work advice required.</p>

For Further Information Contact: Human Resources [lpt.hradvisoryteam@nhs.net](mailto:lpt.hradvisoryteam@nhs.net)

## 1.2 Key individuals involved in developing and consulting on the document

Name	Designation
Accountable Director	Sarah Willis
Author(s)	Sarah Tyers, Senior HR Advisor
	Trust Policy Experts
	All LPT Employees Bands 7 and above

## 1.3 Governance

Level 2 or 3 approving delivery group	Level 1 Committee to ratify policy
Workforce Development Group	People and Culture Committee

## 1.4 Equality Statement

Leicestershire Partnership NHS Trust (LPT) aims to design and implement policy documents that meet the diverse needs of our service, population and workforce, ensuring that none are placed at a disadvantage over others. It takes into account the provisions of the Equality Act 2010 and promotes equal opportunities for all. This document has been assessed to ensure that no one receives less favourable treatment on the protected characteristics of their age, disability, sex (gender), gender reassignment, sexual orientation, marriage and civil partnership, race, religion or belief, pregnancy and maternity.

If you would like a copy of this document in any other format, please contact [lpt.corporateaffairs@nhs.net](mailto:lpt.corporateaffairs@nhs.net)

## 1.5 Due Regard

LPT will ensure that due regard for equality is taken and as such will undertake an analysis of equality (assessment of impact) on existing and new policies in line with the Equality Act 2010. This process will help to ensure that:

- Strategies, policies and procedures and services are free from discrimination.
- LPT complies with current equality legislation.
- Due regard is given to equality in decision making and subsequent processes.
- Opportunities for promoting equality are identified.

Please refer to due regard assessment (Appendix 8) of this policy.

## 1.6 Definitions that apply to this policy.

<b>Poor Performance/ Capability</b>	Employee is not working to the standard required for their job. This can be in reference to the skill, aptitude and knowledge of the employee.
<b>Staff Representative</b>	Either a "Trade Union/Staff Side Representative" or a colleague of the employee (i.e. an employee of the Trust).
<b>Trade Union/Employees Organisation Representative</b>	An accredited representative of a Trade Union/ Employees Organisation recognised by the Organisation under its Facilities and Time Off Work etc. agreement.
<b>Action Plan for improvement in performance</b>	An action plan to detail the areas of substandard performance and to identify the objectives to help the employee achieve full standard of work performance
<b>Working Days</b>	Working days shall comprise of Monday to Friday excluding bank holidays. Correspondence unless hand delivered, should be posted first class and will be deemed to have been received the next day.
<b>Calendar Months</b>	A calendar month shall be regarded as running from the first to the last day of each month e.g.: 1 <sup>st</sup> May – 30 <sup>th</sup> April (12 calendar months) <b>Or</b> 15 <sup>th</sup> May – 14 <sup>th</sup> June (1 calendar month) - if the calendar months starts in the middle of the month.
<b>Due Regard</b>	Having <b>due regard</b> for advancing equality involves:

- |  |  |
|--|--|
|  | <ul style="list-style-type: none"> <li>• Removing or minimising disadvantages suffered by people due to their protected characteristics.</li> <li>• Taking steps to meet the needs of people from protected groups where these are different from the needs of other people. Encouraging people from protected groups to participate in public life or in other activities where their participation is disproportionately low.</li> </ul> |
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## 2.0 Introduction

- 2.1 Leicestershire Partnership NHS Trust (LPT) recognises that its success in providing high quality services to patients depends to a large extent, on the ability of employees to achieve and maintain the required standards of performance.
- 2.2 Our aim throughout this Policy is to resolve situations, which relate specifically to the lack of capability of an employee to perform work that they are employed to do. Issues should be raised with employees through their usual regular supervision/contact meetings but in any case at the earliest available opportunity.
- 2.3 The Trust also recognises the importance of the employees Appraisal process, which seeks to develop the potential of employees and so to improve their performance through planned development and feedback. If employees are clear about their role and their objectives and how the attainment of those objectives contributes to the overall success of the Trust, their efforts will be more appropriately directed and their motivation improved.
- 2.4 Where an employee's performance is considered to be below the required standard, action must be taken to address this.
- 2.5 Performance is assessed by reference to the skill, aptitude and knowledge of the employee in relation to the job they are employed to perform. Application of this procedure is designed to assist where there is a need to improve performance which is due to a lack of ability or skill and to provide a supportive environment in which such issues can be addressed constructively in the interests of all parties.
- 2.6 Every reasonable effort should be made to identify the reasons for the need to improve performance, including whether the employee is facing difficulties at work or at home which could have a bearing on the situation and their willingness or ability to work to acceptable standards.

The Trust will do what it reasonably can to assist the employee to try and resolve any such difficulties and/or provide support or training that might aid improvement. Consideration should be given to any support that employees might require with stress related issues, including referring to the Trust's Management of Stress at Work Policy and Procedure and completing the stress risk assessment to help to identify reasons and appropriate support.

Managers should also consider employees with caring responsibilities and the impact this may have on them in the workplace. Managers should make employees aware of the carers passport and guidance for supporting employees with caring responsibilities.



The Trust has various Employees Networks – Spectrum (LGBTQ+), Carers, MAPLE (Mental and Physical Life Experiences), Neurodiversity, REACH (Race Equality and Cultural Heritage) and Menopause support. These networks are free to use for all employees and are available for those with these characteristics to help address issues or challenges and support the overall objective of equality and inclusivity. If managers or employees feel that there may be cultural elements which may be affecting an employee's performance, managers could link in with the Equality, Diversity and Inclusion team for further guidance.

If an employee has a disability as defined by the Equality Act 2010, LPT will ensure that line managers comply with their duty to make reasonable adjustments to allow the employee to improve their performance. Managers should refer to the Reasonable Adjustment Policy and inform/involve Human Resources (HR). The Manager should then investigate and implement any recommended reasonable adjustments in conjunction with HR. A Health Passport should be completed which is designed to support a discussion about an employee to capture what helps them best at work.

Consultation and advice should also be sought from Equality, Diversity and Inclusion Team, Occupational Health, Health and Safety advisors, Estates, IT advisor, Mental and Physical Life Experiences Employees Network (MAPLE), Work Coach (previously known as Disability Employment Advisors) as well as the employee concerned.

If an employee highlights that they have a disability, neurodiversity or underlying health condition or require additional support to satisfy their role, an Occupational Health referral should be submitted for a better understanding of any reasonable adjustments that may be beneficial to the employee. This can be submitted during any part of the informal or formal process.

An employee can submit an Access to Work application through the Government website (Gov.uk) if an employee has a disability, neurodiversity or physical or mental health condition which may contribute to under performance. Access to Work can support with funding of equipment, adaptations or getting to or from work. For further information please speak to your HR representative.

## 2.7 Key documents which should be used to support the performance of an employee are:

- Job description
- Appraisals
- Trust policies, procedures and protocols
- NHS codes of conduct and Professional Bodies' Codes of Conduct.

These documents establish the standards of performance expected by the Trust.

All employees should act in accordance to our Trust leadership behaviours for all and be able to evidence adherence in situations that involve Supporting Performance.

A fundamental approach to developing our Leadership behaviours for all is our ability to both give and receive feedback in a positive and insightful way. The feedback method is based on defining; Context, Understanding, Behaviour and Effect (CUBE).

## 2.8 LPT is committed to providing employees with clear roles and responsibilities.

- 2.9 LPT is committed to providing line management support and opportunities for learning and development to ensure that employees have the skills they need to perform their duties.
- 2.10 This procedure sets out a fair and effective framework for dealing promptly with situations or circumstances in which an employee does not meet the required performance standards.
- 2.11 Employees have the right to be represented by a trade union or organisational representative/ or work colleague at any meetings held under the formal stages of this policy and procedure.
- 2.12 The timescales set out in the procedure should be adhered to wherever possible.
- 2.13 Employees have a right of appeal against Stage 1, 2 and 3 decisions. Decisions made at these formal stages may result in sanctions (warnings) up to and including dismissal at stage 3.
- 2.14 There may be occasions where an employee's performance is satisfactory throughout the period the warning is in force or the period of review only to lapse very soon thereafter. Where this pattern emerges the employee's previous record of performance should be borne in mind when deciding on the next course of action.

### 3.0 Purpose

- 3.1 This procedure is designed to ensure that employees are aware of the need to maintain the high standards of performance required by the Trust and are supported to achieve this. The procedure also outlines the possible outcomes where improvements in performance is not made or sustained.
- 3.2 One of the primary aims of the procedure is to encourage and support a permanent improvement in the employee's work performance. It is also designed to ensure that employees are treated equitably, fairly and consistently.

### 4.0 Duties within the Organisation

- 4.1 The Trust Board has a legal responsibility for Trust policies and for ensuring that they are carried out effectively.
- 4.2 The Trust Policy Committee is mandated on behalf of the Trust Board to adopt policies.
- 4.3 The Director of Human Resources and Organisation Development has a responsibility to:
- Ensure this policy and procedure is consistently applied
  - Monitor the operation of this policy and procedure.

#### 4.4 Managers Responsibilities

Managers will be responsible for:

- The careful selection and induction of new employees.
- To ensure job descriptions are regularly reviewed to accurately reflect the role

- Ensuring their employees are aware of the standards required of them in terms of work performance.
- Ensuring their employees are adequately trained for the jobs they are employed to perform.
- Evaluating learning opportunities with members of their team, so that any need to improve that is identified may be corrected.
- Carrying out annual appraisal. This review should provide an opportunity for appraiser and appraisee to discuss and review contribution over the past 12 months, recognise performance, discuss behaviours, set future objectives and agree personal development plan.
- Being considerate of any underlying health conditions that may impact on an employee's performance including neurodiverse conditions and where necessary taking appropriate advice about reasonable adjustments for disabled employees.
- Avoiding any stereotyping or preconceived notions of a person's abilities based on their protected characteristics.
- Holding regular supervision/contact meetings with employees in line with current Trust Supervision Policy.
- Ensuring that any concerns are discussed and recorded with employees at the earliest opportunity.
- Ensuring that support identified between the manager and employees member is put into place with the minimum of delay.
- Following up with employees any concerns to ensure that the required level of performance is achieved and maintained.
- Accessing their own supervision and suitable training e.g. healthy conversations to assist in addressing issues with their employees.
- Being considerate of employees with caring responsibilities and flexible working patterns
- Being considerate of ethnic and cultural differences and taking advice as necessary.
- Evidencing that concerns have been raised prior to the work performance action plan conversation and to ensure support has been put in place to enable the employee to make the required improvements.

#### 4.5 **Responsibility of Employees**

All employees (including seconded employees) should be aware that despite the above responsibilities of managers, every employee has an individual duty of responsibility to ensure that they know where to locate policies or procedures when necessary and to adhere to all Trust Policies and Procedures.

All employees should be aware of how policies and procedures impact on their practice and must be able to follow the specified requirements.

#### **Employees are Responsible for:**

- Complying with this procedure and supporting its implementation
- Achieving and maintaining the standards that are required of them and to co-operate with their managers in identifying development needs and to act on them.
- Ensuring they keep their knowledge up to date in line with the requirement of their role.

- Being aware of what the Trust can offer in relation to improving their practice and are proactive in discussing opportunities with their manager and identifying their own learning needs.
- Their own Continuous Professional Development (CPD). Where required they should ask their line manager to support them with achievement of this. The ultimate responsibility however lies with the employees themselves.
- Ensuring they are aware of and take responsibility for attending the mandatory training and any essential to role training requirements to achieve and maintain competence in their role within the timescale agreed with their line manager.
- Ensuring they book on to and attend mandatory training and essential to role training before their competence expires.
- Ensuring they are having 121 meetings/supervisions to support development
- Attending and participating in annual appraisals and relevant appraisal training to discuss current performance and future development.

#### 4.6 Human Resources Responsibilities

The Human Resources Department will be responsible for:

- Updating this policy and procedure in light of any changes e.g. changes in legislation, changes in Department of Health guidance, changes in service requirements etc.
- Providing advice, assistance, support and training to ensure robust and consistent implementation of this procedure.
- Facilitating a proactive approach to supporting performance.

#### 4.7 Employees Staffside Representatives Responsibilities

- Employees Staffside Representatives will be responsible for providing advice and support to their members throughout the application of this procedure
- Supporting the review of this procedure
- Signposting their union members to appropriate learning representatives to assist with ongoing learning and development.

### 5.0 Scope

- 5.1 This procedure applies to all employees of LPT who are not in their probationary period. Employees who are in their probationary period should refer to the Trust Probation Policy.
- 5.2 This procedure also applies to employees whose need to improve performance in their role is due to an underlying health condition or a disability. Any time off due to a related sickness absence will be managed under the Attendance Management and Wellbeing Policy and Procedure.
- 5.3 In the case of medical employees this procedure should be applied in conjunction with the framework set out in “Maintaining High Professional Standards in the Modern NHS”.
- 5.4 In the case of other employees such as external secondees responsibility for dealing with matters of performance and capability rests with the individual’s employing organisation.

## 5.5 Bank and Agency Workers

- 5.5.1 If a performance issue is identified with a Bank or Agency Worker during the period they are assigned to work, you should discuss this with Human Resources and follow the Procedure for Managing Capability and Conduct: Temporary Employees.

## 6.0 When does this procedure apply?

- 6.1 In cases where the need to improve performance has been identified, managers should work together with the employee to support resolving the issues informally through regular supervision, meetings, training and mentoring, shadowing etc.

Where the above measures have been tried but performance has not improved and where the need to improve performance persists or where the need to improve performance is serious and/or a risk to patients, other employees or the Trust, this procedure should be applied.

- 6.2 Where ill health or disability is determined to be an over-riding factor in the need to improve performance, managers should make reasonable adjustments to support the employee to make improvements. This may involve gaining advice from Occupational Health or other agencies such as Access to Work or Remploy.

Where an employee discloses concerns about a possible disability this should be explored with Occupational Health and any support that may be required should be considered e.g. arrange for Dyslexia screening.

Although in itself not a disability, some symptoms of the menopause may also require exploring support that may be needed and there are menopause support resources available on the Trust intranet.

However, where frequent absences impact on the employee's ability to perform, the Attendance Management and Wellbeing Policy and Procedure may be used to set expected standards of attendance alongside the Supporting Performance procedure.

- 6.3 This procedure does not cover the need to improve performance due to lack of care or attention, negligence, attitude or unwillingness to carry out duties properly rather than an inability to do so. These are classed as misconduct and should be dealt with under the Trust's Disciplinary Policy.
- 6.4 Where it is established that an individual's personal circumstances are impacting on their ability to perform effectively in the job, consideration should be given as to whether changes to work arrangements in line with the provisions of the flexible working policies could be considered before instigating this procedure, without compromising the business needs of LPT.
- 6.5 Where a combination of factors such as conduct and need to improve performance for reasons of capability apply, the principal reason for the cause for concern should be identified and this will determine the appropriate procedure to be used.

## 7.0 Application of the Supporting Performance Policy and Procedure

### 7.1 Stages of the Procedure

In supporting performance under this procedure, the informal and formal stages will normally be followed sequentially. However, there may be circumstances where it is necessary to move straight to a formal stage of the procedure e.g. where significant history of need to improve performance is identified. In exceptional circumstances it may be appropriate to move straight to stage 1, stage 2 or stage 3 of the procedure, this should be carefully considered and must be discussed with Human Resources.

7.1.1 The stages of this procedure and the range of actions are set out on the flowchart in appendix 2 as follows:

- Informal Stage - Informal Work Performance Action Plan
- Stage 1 Formal Performance Review Meeting
- Stage 2 Formal Performance Review Meeting
- Stage 3 Final Performance Review Meeting (panel hearing).

Where all reasonable support and adjustments have been considered and the employee has not achieved the improvements required, the formal process will be invoked. The formal process can be invoked where an informal work performance action plan has previously been signed off if the same issues arise.

Failure to improve to the required standard may lead to summary dismissal on the grounds of capability.

The periods of monitoring under each stage may vary depending on the areas and level of improvement required. The intention is for the employee to reach and sustain the required level of improvement so the monitoring periods will be reasonable and where possible mutually agreed. If training is required, dates of training should be considered within monitoring periods set.

At each stage of the formal procedure the employee will be invited to the formal meeting in writing and will be notified of the right to be represented by their trade union/professional organisation or by a work colleague. A member of the Human Resources team may be present in formal meetings when required.

## **7.2 Rights to Representation**

7.2.1 At all formal stages of this procedure, the employee will have a right to representation by either their employees side representative or by a work colleague. There is no right to being accompanied by a friend or family member or a legal representative at any stage of the procedure.

7.2.2 In agreement with Human Resources/Employees Side representatives, attempts will be made to identify any reasonable adjustments and/or additional measure of support; this may include a link worker/support worker.

## **7.3 Informal Stage - Informal Work Performance Action Plan**

7.3.1 Line Managers should monitor the performance of their employees and provide positive and constructive feedback by having regular two way conversations, including regular supervision and appraisal reviews Managers should ensure that any relevant policies, training and standard operating procedures are in place. Where the performance issue is considered to be minor and is an isolated incident a supportive conversation and opportunities for reflection may be enough for an early resolution.

7.3.2 Where the performance of an employee is deemed to be below the expected standards, the manager should meet with the employee to clarify the required standards and set out in a clear and understandable way, where and how the performance falls short of the required standard(s).

7.3.3 The manager should also ask the employee for their views on their performance and on a programme of future support or training. The meeting should be held in a positive and supportive environment.

7.3.4 The employee should be given every opportunity to ask for clarification of the standards expected and to bring to the manager's attention any issues which may have affected performance, including work and personal circumstances. The employee may also like to discuss any learning and development needs.

7.3.5 This may also help the line manager in assessing whether advice is required from Occupational Health and whether it is appropriate to remind the employee about the availability of Amica, the confidential counselling service.

7.3.6 The line manager should ascertain from the employee's comments whether they accept that there is a problem and assess the importance of any mitigating circumstances.

7.3.7 Having assessed the situation, the line manager should discuss and seek the agreement of the employee to an individualised action plan to achieve the improvements in performance that are expected. This should consist of:

- A clear statement of the standards to be achieved. Consideration should be given to the reasonableness of the expectations, the reasonableness of how many objectives are being set. Also careful consideration should be given to the terminology used and ensuring that the approach is compassionate with a focus on being supportive.
- A realistic time scale for those improvements (**usually between 4 and 8 weeks, but this can be longer or shorter where appropriate**)
- Details of any support or training, and consider any adjustments needed and whether advice is needed from e.g. Occupational Health, Health and Safety, IT, Equality, Diversity and Inclusion team, Access to Work
- Provision for regular monitoring meetings, and regular support and opportunity to ask for help or clarification
- Details of how performance will be measured
- Date of the review.

The action plan should be recorded using the template provided in appendix 1.

7.3.8 The line manager should inform the employee that a failure to meet the required standards within the period set may result in a formal stage of the procedure being invoked.

7.3.9 The review period set under the informal stage may be shortened if other instances of serious need to improve performance come to light during this period which may warrant formal action (please refer to section 7.4).

7.3.9 Similarly where appropriate the review period can be extended to take into account any delays in providing training or long periods of annual leave etc.

7.3.10 The areas discussed at the meeting and the action plan should be confirmed in writing to the employee where possible within 5 working days of the meeting.

7.3.11 If the employee meets the required standards within the period set, the line manager should inform the employee, in writing, that they have met the required performance standards, and that no further action will be taken, although their performance will continue to be monitored in the usual way. Usually, performance will continue to be monitored for a period of 6 months to ensure the improved performance can be sustained.

7.3.12 Following the meeting, the manager must send, to the employee, written confirmation of their discussion including any actions agreed and timescales for review etc. A copy of this confirmation should also be kept in the employee's personal file for future reference.

7.3.13 If informal action does not bring about the required level of sustained improvement, the manager should instigate the formal stage of this procedure. HR advice should be sought to support the formal stages.

## **7.4 Formal Process**

### **7.4 Stage 1 - Formal Performance Review Meeting**

7.4.1 A stage 1 meeting will be convened where any of the following applies:

- The employee has not met the performance targets set at the informal stage.
- Where the need to improve performance identified are sufficiently serious to warrant formal action.

7.4.2 The line manager will conduct the stage one meeting with a representative from Human Resources. The employee will be advised of their right to be accompanied by either their employees side representative or a work colleague, please refer to Section 7.2.

7.4.3. The employee will be given a minimum of 5 working days written notice of the date and time of the meeting.

7.4.4 The employee will be informed in writing of the reason for the meeting. The employee will also be advised that they will have an opportunity at the meeting to put forward an explanation and any mitigating circumstances either personally or through their employees side representative or a work colleague. The employee will also be informed of the possible outcomes of this meeting.

7.4.5 The meeting will be digitally recorded but will only be transcribed if an internal appeal is lodged or a claim has been made to an Employment Tribunal. The recording will be stored securely in line with the Trust's Information Lifecycle and Record Management Policy. Access to the recording may be requested if the written summary of the meeting contained in the outcome letter is not accepted as an accurate reflection of the meeting. If transcribed, the recording will be deleted and the transcription will act as the record.

7.4.6 If the employee or their representative is unable to attend the meeting, it can be rescheduled in accordance with paragraph 8.1 of this procedure.



#### 7.4.7 At this meeting:

- Issues regarding the employee's need to improve performance will be considered.
- The employee will be reminded of the standards of performance which are required.
- Any measures taken to date such as support and training provided to help the employee to improve their performance will be outlined.
- The impact that the employee's need to improve their performance has on service provision will be highlighted.
- The employee will be offered the opportunity to give their reasons for the need to improve their performance and discuss any problems or raise any concerns.
- Consideration should be given to mitigating circumstances, if any, such as lack of adequate training or extenuating personal circumstances which have had a bearing on the employee's performance.
- Where management is satisfied that the mitigation presented by the employee may have been a significant factor in the need to improve their performance, they may consider extending the monitoring period, if required.
- If there are no mitigating circumstances or if management is not satisfied that the mitigation presented by the employee has had sufficient bearing on the need to improve their performance, the employee should be issued with a first written warning. **This will stay on their file for 6 months from the date of the meeting.**
- As an alternative to a first written warning, the line manager or the employee may wish to discuss the option of redeployment to the same or a lower banded post which might be more appropriate to the employee's skills and abilities. At formal stage one of this procedure the option of redeployment can only be considered where there is an available and suitable alternative within the same department or service, and if the employee wishes to pursue this. Please refer to section 7.7.
- The action plan set at the informal stage will be reviewed and amended if necessary and will now become a formal action plan. A new time scale for the achievement of the required standards should be set which allows sufficient time to meet the standard, but it should not be unduly prolonged. The action plan should consist of:
  - A clear statement of the standards to be achieved. Consideration should be given to the reasonableness of the expectations, the reasonableness of how many objectives are being set. Also careful consideration should be given to the terminology used and ensuring that the approach is compassionate with a focus on being supportive.
  - A realistic time scale for those improvements (**usually between 4 and 8 weeks, but this can be longer or shorter where appropriate**)
  - Details of any support or training, and consider any adjustments needed and whether advice is needed from e.g. Occupational Health, Health and Safety, IT, Equality, Diversity and Inclusion team, Access to Work
  - Provision for regular monitoring meetings, and regular support and opportunity to ask for help or clarification
  - Details of how performance will be measured
  - Date of the review.

The action plan should be recorded using the template provided in appendix 1.

- The employee should be advised at this stage that if they fail to meet the required performance standard by the deadline as set out at this meeting, formal stage two will be invoked.
- A letter will be sent to the employee to confirm the outcome of the stage one meeting within where possible 5 working days of the meeting.
- Where the employee feels that the action taken against them is wrong or unjust they can appeal against the decision. Any appeal must be made to the Director of Human Resources and Organisational Development within 10 working days of the date of the letter confirming the warning. The employee must set out in writing their grounds for appeal, the statement of case and any other documentation which they wish the appeal panel to consider. The Appeal hearing will be conducted as set out in section 7.8

## **7.5 Stage Two Formal Performance Review Meeting**

7.5.1 A stage two meeting will be convened where any of the following applies:

- The first written warning issued under stage one is live, and the employee has not met the performance standards set at the stage one meeting.
- Where the need to improve performance is substantial and sufficiently serious to warrant formal action being taken under formal stage two.
- Where stage one has been applied before and improvement in the employee's performance has not been sustained for a period of a minimum of 6 months.

7.5.2 The line manager will conduct the stage two meeting with a representative from Human Resources. The employee will be advised of their right to be accompanied by either their employees side representative or a work colleague, please refer to Section 7.2.

7.5.3 The employee will be given a minimum of 5 working days written notice of the date and time of the meeting.

7.5.4 The employee will be informed in writing of the reason for the meeting. The employee will also be advised that they will have an opportunity at the meeting to put forward an explanation and any mitigating circumstances either personally or through their employees side representative or a work colleague. The employee will also be informed of the possible outcome of this meeting.

7.5.5. The meeting will be digitally recorded but will only be transcribed if an internal appeal is lodged or a claim has been made to an Employment Tribunal. The recording will be stored securely in line with the Trust's Information Lifecycle and Record Management Policy. Access to the recording may be requested if the written summary of the meeting contained in the outcome letter is not accepted as an accurate reflection of the meeting. If transcribed, the recording will be deleted and the transcription will act as the record.

7.5.6 If the employee or their representative is unable to attend the meeting, it can be rescheduled in accordance with paragraph 8.1 of this procedure.

7.5.7 At this meeting:

- Issues regarding the employee's continued need to improve their performance will be considered.

- The employee will be reminded of the standards of performance which are required.
- Any measures taken to date such as support and training provided to help the employee to improve their performance will be outlined.
- The impact that the employee's need to improve their performance has on service provision.
- The employee will be offered the opportunity to give their reasons for the need to improve performance and discuss any problems or raise any concerns.
- Consideration should be given to mitigating circumstances, if any, such as lack of adequate training or extenuating personal circumstances which have had a bearing on the employee's performance.
- Where management is satisfied that the mitigation presented by the employee may have been a significant factor in their need to improve their performance, they may consider extending the monitoring period at stage 1, if required.
- If there are no mitigating circumstances or if management is not satisfied that the mitigation presented by the employee has had sufficient bearing on their need to improve their performance, the employee should be issued with a final written warning. **This will stay on their file for 12 months from the date of the meeting and will replace a warning issued at stage 1 that is still in date.**
- As an alternative to final written warning, the line manager or the employee may wish to discuss the option for redeployment to the same or lower banded post that might be more appropriate to the person's skills and abilities. At formal stage two the option of redeployment can only be considered where there is an available and suitable alternative within the same department or service, and if the employee wishes to pursue this. Please refer to section 7.7.
- The action plan set at stage one will be reviewed and amended if necessary. A new time scale for the achievement of the required standards should be set which allows sufficient time to meet the standard, but it should not be unduly prolonged. The action plan should consist of:
  - A clear statement of the standards to be achieved. Consideration should be given to the reasonableness of the expectations, the reasonableness of how many objectives are being set. Also careful consideration should be given to the terminology used and ensuring that the approach is compassionate with a focus on being supportive.
  - A realistic time scale for those improvements (**usually between 4 and 8 weeks, but this can be longer or shorter where appropriate**)
  - Details of any support or training, and consider any adjustments needed and whether advice is needed from e.g. Occupational Health, Health and Safety, IT, Equality, Diversity and Inclusion team, Access to Work
  - Provision for regular monitoring meetings, and regular support and opportunity to ask for help or clarification
  - Details of how performance will be measured
  - Date of the review.

The action plan should be recorded using the template provided in appendix 1.

- The employee should be advised at this stage if they fail to meet the required performance standard by the deadline as set out at this meeting, formal stage three will be invoked which could result in termination of their employment.
- The employee will be advised if performance is not sustained for at least a 12 month period following completion of the action plan, then the employees formal

action plan will be taken account of and the employee will re-enter at the beginning of stage two or formal stage three if appropriate.

- A letter will be sent to the employee to confirm the outcome of the formal stage two meeting within where possible 5 working days of the meeting.
- Where the employee feels that the action taken against them is wrong or unjust they can appeal against the decision. Any appeal must be made to the Director of Human Resources and Organisational Development within 10 working days of the date of the letter confirming the warning. The employee must set out in writing their grounds for appeal, the statement of case and any other documentation which they wish the appeal panel to consider. The Appeal hearing will be conducted as set out in section 7.8.

## **7.6 Stage three Final Performance Review Meeting (Panel Hearing)**

7.6.1 A stage three panel hearing will be convened where any of the following apply:

- Where the final written warning issued under stage two is live and the employee has not met the performance standards set at the stage two meeting at all or has not improved sufficiently.
- Where the need to improve performance is substantial and so serious as to warrant action under stage three.
- Where stage two has been applied before and improvement in the employee's performance has not sustained for a period of a minimum of 12 months.

7.6.2 This hearing should be conducted by the appropriate senior manager with authority to dismiss (please see Appendix 2), along with another manager of the Trust and an HR Representative. The employee will be advised of their right to accompanied by either their employees side representative or a work colleague, please refer to Section 7.2.

7.6.3 A "Running Order" for the Supporting Performance hearing is included at Appendix 4 of this procedure.

7.6.4 The Stage three Supporting Performance hearing will be recorded digitally. A copy of the digital recording will be kept securely in HR and made available to either party to listen to upon request. Digital recordings will only be transcribed if an internal appeal has been lodged or a complaint has been made to the employment tribunal.

7.6.5 The employee should be given a minimum of **15 working days** written notice of the hearing, informing them of the reason for the hearing and advising that termination of contract due to persistent poor performance is one of the possible outcomes of the hearing. The employee will also be sent the management statement of case and any relevant documentation which will be used at the hearing.

7.6.6 The employee will be required to submit their written response to the management case and any other documentation that they wish to use at the hearing at least 5 working days before the date of the hearing.

7.6.7 If the employee or their representative is unable to attend the hearing, it can be rescheduled in accordance with paragraph 8.1 of this procedure.

7.6.8 At the hearing the following should be considered:

- The nature and extent of the unsatisfactory performance.
- A description of the performance standards set and actions taken to date.
- The timescale over which the performance has been reviewed.
- The support provided to encourage improvement in performance, i.e. any training or additional support given, or any adjustments made to the nature, role or duties of the job.
- Arrangements made to supervise and monitor the employee's performance
- Impact the employee's need to improve performance has on service provision.

7.6.9 At the hearing management and the employee will have an opportunity to bring any witnesses where appropriate to support their case, raise any points of explanation and to ask each other any questions they feel are relevant to their case.

7.6.10 The panel will ask both management and employee questions.

7.6.11 The panel will consider the facts submitted/presented and can make one of the following decisions:

- Terminate the employee's contract of employment on grounds of capability
- Offer redeployment option in line with section 7.7 of this procedure as an alternative to dismissal.
- Give a further opportunity to improve performance at stage 2 of the process in their current post with a development plan with agreed timescales.

7.6.12 If the employee is to be dismissed this will be with notice or in most cases usually with pay in lieu of notice.

7.6.13 The employee will be informed in writing of the outcome of the stage three hearing within 5 working days of the date the hearing either by post or email.

7.6.14 Where the employee feels that the action taken against them is wrong or unjust they can appeal against the decision. Any appeal must be made to the Director of Human Resources and OD within 10 working days of the date of letter confirming the outcome. The employee must set out in writing their grounds for appeal. The Appeal hearing will be conducted as set out in section 7.8.

7.6.15 The lodging of an appeal will not result in any delay in progressing redeployment or suspend the decision of the Supporting Performance panel. However, in the event of reinstatement/re-engagement following appeal, the employee will be compensated for loss of income between the date of termination/downgrading and the date of reinstatement/engagement.

7.6.16 An appeal hearing will be arranged at the earliest opportunity following receipt and acceptance of the employees written grounds of appeal by the Director of Human Resources and Organisational Development.

## **7.7 Redeployment as an alternative to a formal sanction**

7.7.1 At any formal stage of the process, the line manager or the employee may wish to discuss the option for redeployment to the same or a lower banded post that might be more appropriate to the employee's skills and abilities.

- 7.7.2 At formal stage one and two, the option of redeployment can only be considered where there is an available and suitable alternative within the same department or service and if the employee wishes to opt for it.
- 7.7.3 At all stages of the process, a post will be classified as suitable under this procedure if it meets the following requirements:
- It is at the same band or a lower band than the employee's current pay band.
  - The employee meets the essential criteria for the job or would meet with the minimal training within a reasonable period of time.
- 7.7.4 Under this procedure, where the employee is redeployed in a lower banded post pay protection will not apply. Similarly where redeployment results in the employee incurring more home to base mileage due to relocation, excess mileage will not be payable.
- 7.7.5 At stage three, where appropriate, the Supporting Performance panel will have the authority to impose this option as an alternative to dismissal. At this stage the employee will be awarded 'at-risk' status for a 12 week period, during which time redeployment opportunities will be explored. It may be appropriate to consider an adjusted role or duties during the at risk period.
- 7.7.6 The employee will be offered an opportunity to apply for available post/s that have been identified as suitable by completing an application form and will be given preferential consideration. They will be interviewed with other at risk applicants and still need to demonstrate suitability for the new position against essential criteria on the person specification.
- 7.7.7 Redeployment in another post will be subject to a minimum 4 week trial period on both sides (management and employee). This may be extended up to 12 weeks where circumstances require it, this should be agreed with HR.
- 7.7.8 Where the employee is not redeployed into another post within the 12 week redeployment period or where the trial has been unsuccessful and the redeployment period has been exhausted, a meeting will be held at least 5 working days before the end of the trial or redeployment period to confirm that their contract of employment will be terminated with notice on the grounds of capability/poor performance.
- 7.7.9 The notice period will run concurrently with the redeployment period.
- 7.7.10 Where the employee has a disability, reasonable adjustments need to be made to allow them to undertake the role. Where required, assistance and advice from agencies/professionals such as Occupational Health or Disability Employment Advisors should be sought on this matter

## **7.8 Procedure for Conducting the Appeal Hearing**

- 7.8.1 An Appeal Hearing is not designed to re-hear the case but to examine the grounds of appeal. Appeals must be made in writing to the Head of Operational HR within 10 working days of the date of the letter confirming the disciplinary sanction. The employee must be specific about the grounds of appeal; these will effectively form the agenda for the hearing. Appeals can be raised on one of the following grounds:

- The procedure - a failure to follow the procedure had a material effect on the decision.
- The decision - the evidence did not support the conclusion reached.
- The penalty - was too severe given the circumstances of the case.
- New evidence - which has genuinely come to light since the meeting at which the action was taken.

In the event that the appeal does not meet the criteria above it will not be accepted and a letter will be sent to the employee advising them of the rationale for not accepting the appeal.

7.8.2 No person previously involved in the decision or handling of the case should sit on the appeal panel.

7.8.3 The employee will have a right to be represented by either their employees side representative or a work colleague. There is no right to legal representation at appeal hearing.

7.8.4 Appeals should be heard without undue delay.

7.8.5 The Appeal will be heard by a panel as outlined in appendix 3. The appeal hearing will be conducted in a similar manner to a Supporting Performance hearing. Appendix 5 of this procedure sets out the running order for an appeal hearing.

7.8.6 Appeal hearings will be recorded digitally. A copy of the digital recording will be kept securely in HR and made available for either party to listen to upon request. Digital recordings will only be transcribed if a complaint has been made to the tribunal.

7.8.7 The notification of date of the appeal hearing, employee's appeal statement other supporting documents should be sent to the management representation at least 10 working days before the date of the hearing to enable them to formulate a response.

7.8.8 At least 5 working days before the appeal hearing, all parties will be provided with copies of all documents including notification of the date, time and venue of the appeal hearing, the employee's grounds for appeal, their appeal statement, management response to the employee's appeal, employee and witness statements and any other documents submitted by the employee and management in support of their case.

7.8.9 The employee will be advised of their right to accompanied by their employees side representative or a work colleague. There is no right to legal representation at the appeal hearings.

7.8.10 Where the appeal is against first and final written warnings, the line manager will represent the management side at the appeal hearing. Where necessary HR support can be sought in presentation of the management case.

7.8.11 Where the appeal is against dismissal, the chair of the original disciplinary panel will normally represent the management side. Where necessary HR support can be sought in presentation of the management case.

7.8.12 The employee will have an opportunity to call any witnesses. The management side will also have the opportunity to call witnesses. Both parties and the panel will be able to ask questions.

7.8.13 Both the employee and management will be responsible for arranging their own witnesses to attend the hearing.

7.8.14 The appeal panel will have the opportunity to question witnesses and both parties.

7.8.15 Upon reaching a decision the chair of the appeal panel will deliver the decision to both parties at the hearing. The decision will be confirmed in writing to the employee no later than 5 working days from the date of the hearing.

7.8.16 There may be occasions when a decision cannot be reached on the concluding day of the hearing. In these instances, the parties will be notified of the decision in writing.

7.8.17 The possible outcomes of the appeal are:

1. Uphold the original decision in its entirety - i.e. no change
2. Uphold the original decision in terms of the warning but issue a new development plan
3. Uphold the appeal - i.e. revoke the original decision and replace it with the following:
  - issue a lower level warning - with or without an action plan for improvement in performance
  - no formal action to be taken - with or without an action plan for improvement in performance.

7.8.18 Where the appeal against termination is upheld, the employee's employment will be reinstated from the date of dismissal, continuity of service will be maintained and payment of any back pay due will be made.

7.8.19 There will be no further right of appeal available open to the employee within the Trust.

## **8.0 Other Areas**

### **8.1 Postponement of Supporting Performance meetings**

8.1.1 Where the name of the employee's staff side organisation/representative is known, supporting performance meetings should be arranged at a date and time when they are available to attend. All parties should make efforts to avoid unreasonable delay when arranging a mutually convenient date and time for the meeting.

8.1.2 If the individual or their representative is unable to attend a scheduled meeting s/he may request one postponement, provided the request for postponement is made on reasonable grounds. The meeting will be rescheduled as soon as possible ideally held within 5 working days of the original date. The Trust will be under no obligation to allow further postponements.



## **8.2 Supporting Performance of Staff Side Representative**

8.2.1 In cases where formal action is being considered with regard to an accredited representative of a recognised trade union or professional organisation, the manager will seek to discuss the details with an official of the organisation concerned in advance, provided they have received permission from the employee to do so.

## **8.3 Complaints/Grievances during the Supporting Performance Policy and Procedure Process**

8.3.1 Where an employee raises a grievance during the Supporting Performance process, which is about the application of this procedure or another related matter, then the Supporting Performance procedure may be temporarily suspended in order to deal with the grievance. Where the grievance and Supporting Performance cases are related, it may be appropriate to deal with both issues concurrently.

8.3.2 Where the recommendation is that a full investigation should be carried out into the employee's complaint, the Trust will have two options:

- Either to suspend the Supporting Performance process altogether until the complaint has been investigated; or
- To allocate the responsibility of the employee's Supporting Performance process to another manager whilst the complaint is being investigated.

8.3.3 If an investigation concludes that the grievance or complaint was groundless and raised with the intention of avoiding or ending action being taken by the manager to bring about the necessary improvements, consideration will be given as to whether disciplinary action should be taken against the employee on grounds of misconduct.

## **8.4 Referral to other agencies including Statutory/Regulatory Bodies**

8.4.1 LPT is under an obligation, and will, report as required by law to the relevant regulatory professional bodies and the statutory body the Disclosure and Barring Service any serious act of misconduct following advice from the appropriate professional lead.

8.4.2 The Disclosure and Barring Service in December 2012 replaced the Independent Safeguarding Authority and is now the organisation responsible for making barring decisions on individuals who may currently work or seek to work in regulated activity with vulnerable groups including children.

## 9.0 Monitoring Compliance and Effectiveness

Page / Section	Minimum Requirements to monitor	Method for Monitoring	Responsible Individual /Group	Frequency of monitoring
	Application of this policy to be consistently applied to all employees	The total number of open cases under this procedure will be measured (this will be broken down by the protected characteristics as defined by the Equality Act 2012.) Included in IQPR	Trust Board	Monthly
	Application of this policy to be consistently applied to all employees	Data regarding Protected Characteristics	WDG and Trust Board	Annually

## 10.0 References and Bibliography

- LPT Attendance Management and Wellbeing Policy
- LPT Stress Management Policy
- LPT Reasonable Adjustment Policy
- LPT Carers Passport
- NHS Employers People Performance Management Toolkit
- LPT Information Lifecycle and Records Management Policy
- Northamptonshire Healthcare NHS Foundation Trust's Supporting Performance Improvement and Capability Policy.

## 11.0 Fraud, Bribery and Corruption consideration

The Trust has a zero-tolerance approach to fraud, bribery and corruption in all areas of our work and it is important that this is reflected through all policies and procedures to mitigate these risks.

Fraud relates to a dishonest representation, failure to disclose information or abuse of position in order to make a gain or cause a loss. Bribery involves the giving or receiving of gifts or money in return for improper performance. Corruption relates to dishonest or fraudulent conduct by those in power.

Any procedure incurring costs or fees or involving the procurement or provision of goods or service, may be susceptible to fraud, bribery, or corruption so provision should be made within the policy to safeguard against these.

If there is a potential that the policy being written, amended or updated controls a procedure for which there is a potential of fraud, bribery, or corruption to occur you should contact the Trusts Local Counter Fraud Specialist (LCFS) for assistance.

## Appendix 1 - Leicestershire Partnership NHS Trust Work Performance Action plan – Informal stage/ Stage 1/ Stage 2

(\*Delete as appropriate)

Version/Date: .....

**Employee Name:**

**Job Title:**

**Name of line manager setting up the action Plan:**

**Other staff assessing performance goals:**

**Date informal stage / stage 1/ stage 2 action plan agreed:**  
(\*Delete as appropriate)

**Date of review of informal stage / stage 1 / stage 2 action plan:**  
(\*Delete as appropriate)

**Pay step date:**  
  
(If pay step date is during monitoring period will be deferred to next year)

**Appraisal date:**

<b>Objectives to improve performance concerns.</b>  Areas of concern identified from the job description (identify theme)	<b>Examples/evidence of errors/omissions/ work carried out by the employee where need to improve is identified. Include the period/date of the evidence.</b>	<b>Timescale for review. Usually between 4 and 8 weeks but should be agreed depending on the areas and level of improvement required.</b>	<b>Support required to fulfil the gap/s identified (i.e. training, shadowing etc.)</b>	<b>Any adjustments required to support/ Referral to OH/ Access to Work</b>	<b>How the performance will be measured</b>	<b>Objective met/partially met/not met (Red – not met/ Amber – partially met/ Green - met)</b>


Signature (employee) .....

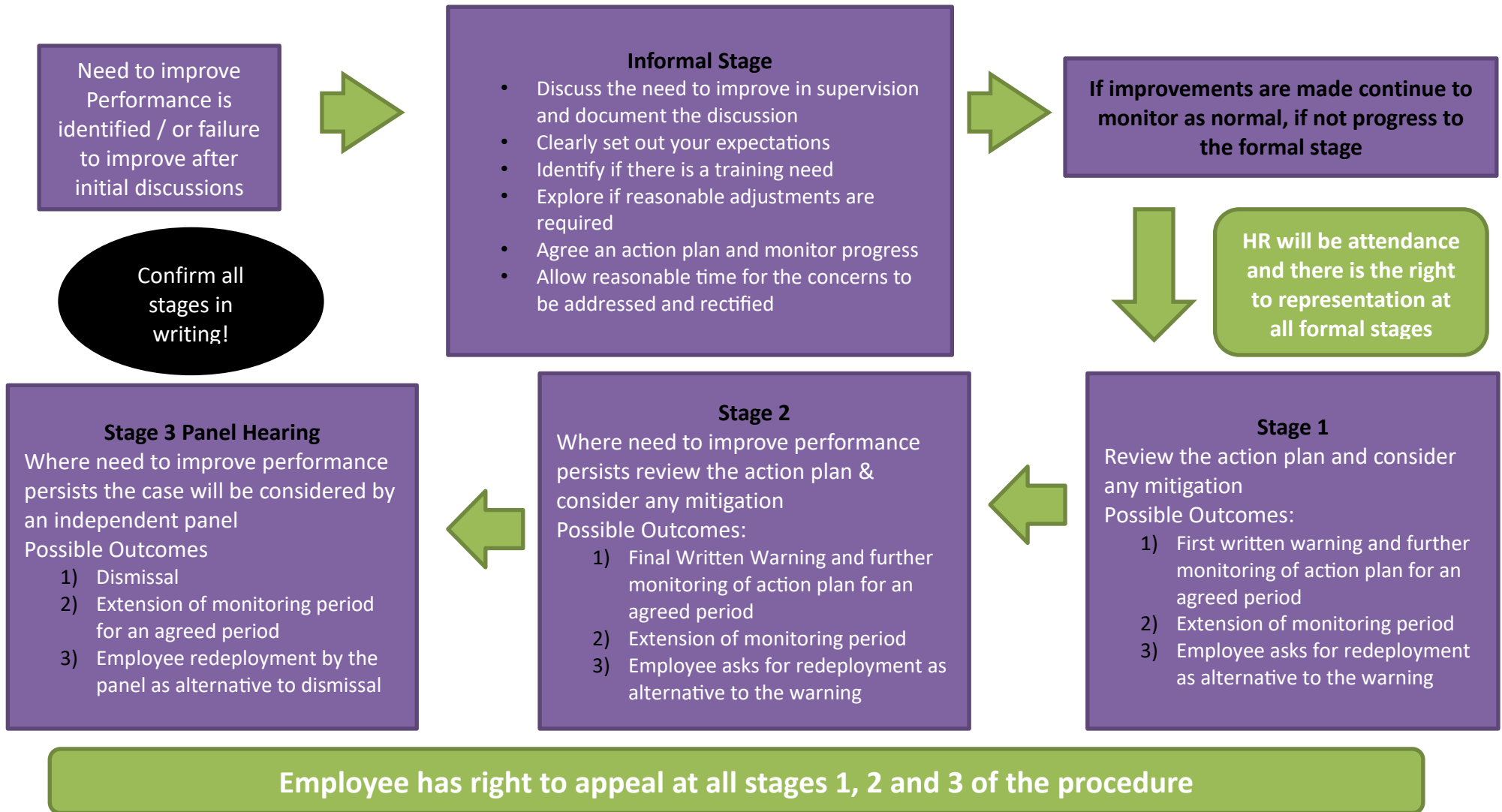
Date: .....

Signature (line manager/person setting up the plan) .....

Date: .....

## Appendix 2

### Flowchart of Supporting Performance Stages



## Appendix 3

### Levels of Authority for Formal Action to be taken under within Supporting Performance Policy and Procedure

Category of Employees	First and Final Written Warnings	Appeal against First and Final Written Warnings	Dismissal	Appeal against Dismissal
Chief Executive	<b>Panel of 3 comprising:</b> <ul style="list-style-type: none"> <li>Chair of the Trust</li> <li>Non-Executive Director</li> <li>HR Representative</li> </ul>	<b>*** Panel of 3 comprising:</b> <ul style="list-style-type: none"> <li>Chair from another NHS Trust</li> <li>Non-Executive Director</li> <li>HR Representative</li> </ul>	<b>Panel of 3 comprising:</b> <ul style="list-style-type: none"> <li>Chair of the Trust</li> <li>Non-Executive Director</li> <li>HR Representative</li> </ul>	<b>*** Panel of 3 comprising:</b> <ul style="list-style-type: none"> <li>Chair from another NHS Trust</li> <li>Non-Executive Director</li> <li>Senior HR Representative</li> </ul>
Executive Directors	<b>Panel of 2 comprising:</b> Chief Executive and HR Representative	<b>*** Panel of 3 comprising:</b> <ul style="list-style-type: none"> <li>Chair of the Trust</li> <li>Non-Executive Director</li> <li>HR Representative</li> </ul>	<b>Panel of 3 comprising:</b> <ul style="list-style-type: none"> <li>Chair of the Trust</li> <li>Non-Executive Director</li> <li>HR Representative</li> </ul>	<b>*** Panel of 3 comprising:</b> <ul style="list-style-type: none"> <li>Chief Executive or Chair from another NHS Trust</li> <li>Non-Executive Director</li> <li>Senior HR Representative</li> </ul>
Employees at Band 8c or above	<b>Panel of 2 or 3 (See Note 4) comprising:</b> Line Manager and HR Representative	<b>*** Panel of 2 or 3 (See Note 4) comprising:</b> <ul style="list-style-type: none"> <li>Manager above and next in line to the manager who issued the warning and</li> <li>Manager or professional lead (if relevant to the case)</li> <li>HR Representative</li> </ul>	<b>Panel of 3 (See Note 5) comprising:</b> <ul style="list-style-type: none"> <li>Director</li> <li>Manager or Professional lead (if relevant to the case)</li> <li>HR Representative</li> </ul>	<b>*** Panel of 3 comprising:</b> <ul style="list-style-type: none"> <li>Non-Executive Director</li> <li>Director</li> <li>Senior HR Representative</li> </ul>
All Other Employees**	<b>Panel of 2 or 3 (See Note 4) comprising:</b> Line Manager and HR Representative	<b>*** Panel of 2 or 3 (See Note 4) comprising:</b> <ul style="list-style-type: none"> <li>Manager above and next in line to the manager who issued the warning</li> <li>Manager or Professional lead (if relevant to the case)</li> <li>HR Representative</li> </ul>	<b>Panel of 3 (See Note 5) comprising:</b> <ul style="list-style-type: none"> <li>Director or Head of Service</li> <li>Manager or Professional lead (if relevant to the case)</li> <li>HR Representative</li> </ul>	<b>*** Panel of 3 comprising:</b> <ul style="list-style-type: none"> <li>Director or Head of Service</li> <li>Manager at Band 8c or above</li> <li>Senior HR Representative</li> </ul>

N.B\*\* for medical employees, the panel composition will be in line with the requirements under “Maintaining High Professional Standards in the Modern NHS” framework.

\*\*\* For all appeals none of the panel should have been previously involved at any level or be from the same service.

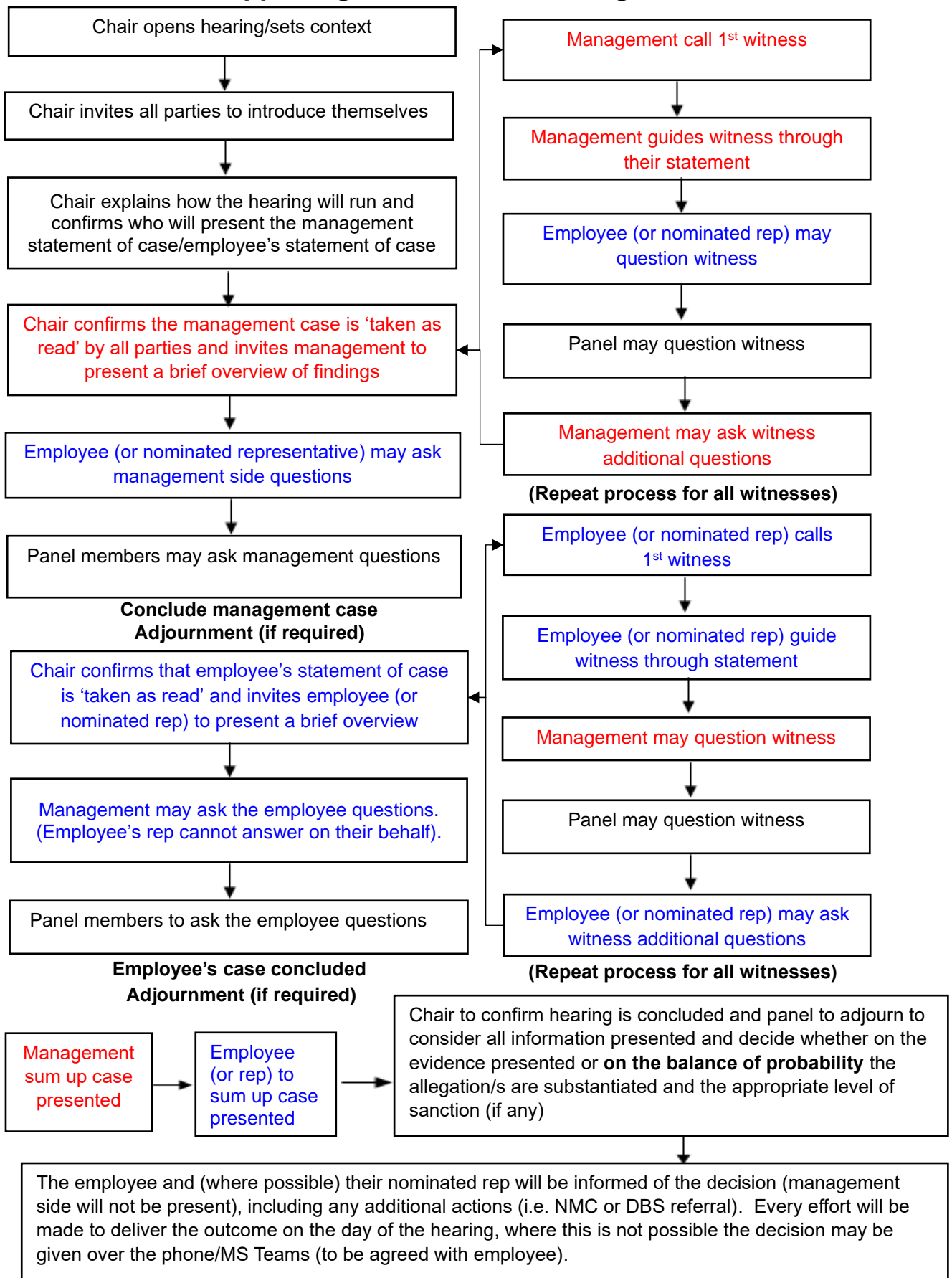
## Stage 3 Panel Hearing

### Notes:

1. The panel should be independent (not previously involved in the case) However in some circumstances an outcome of a stage 3 panel may be to arrange to re-convene the same panel at stage 3.
2. Where appropriate, actions may be delegated to designated officers.
3. For Supporting Performance hearings involving registered professionals, the panel will normally include a professional from the relevant discipline.
4. Managers can not dismiss direct reports.
5. Where the panel does not include a representative from Human Resources, the panel will have access to Senior HR advice as required.

## Appendix 4

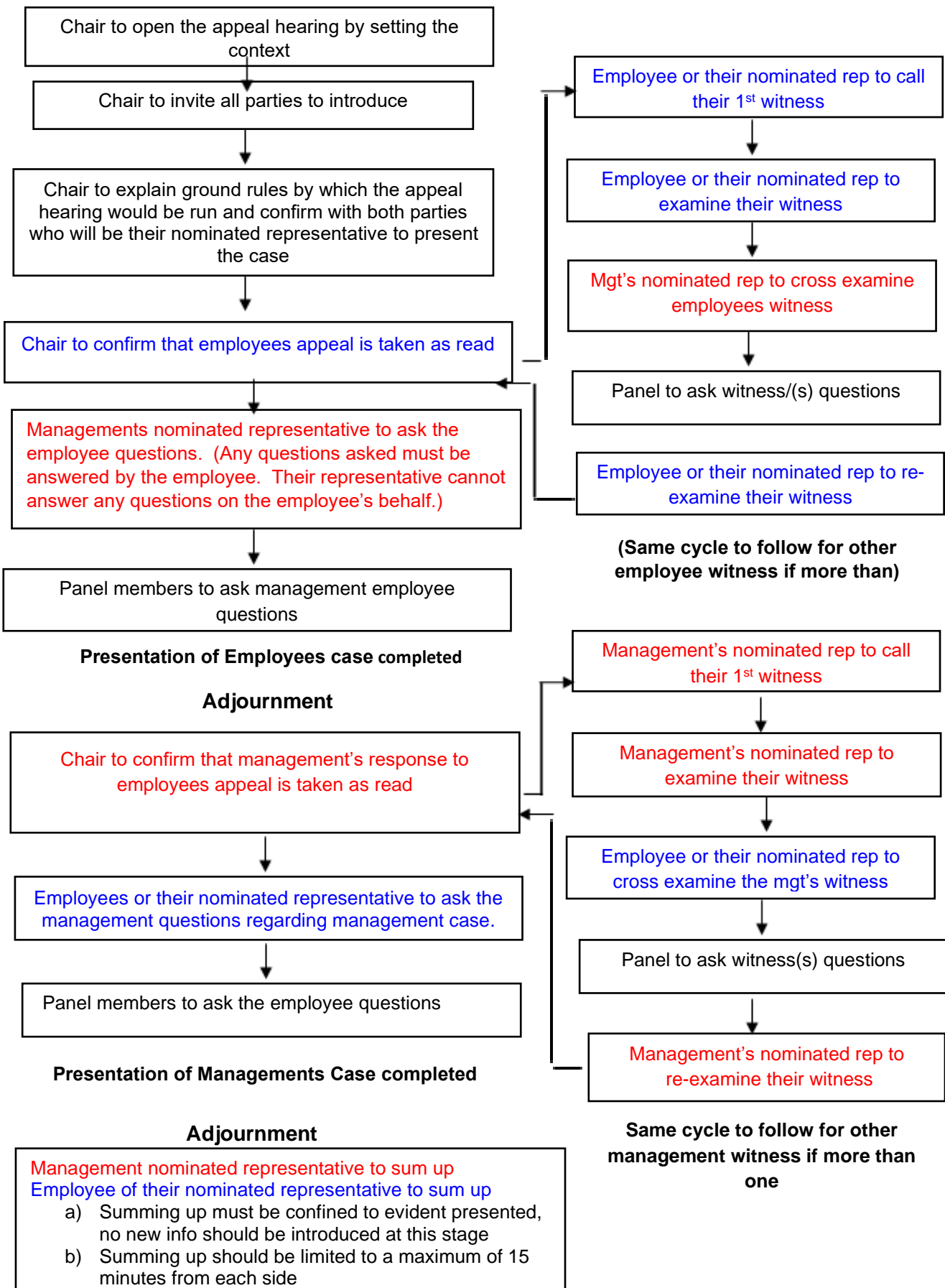
### Formal Supporting Performance Hearing flowchart





## Appendix 5

### Flowchart to show how Formal Appeal Hearing will be run



## **Flowchart to show how the Appeal Hearing will be run**

### **Adjournment for the appeal panel to reach a decision**

The appeal panel will consider the appropriateness of the original decision made, based upon the information that was available to the original disciplinary panel. In doing so the panel will need to determine:

- a) whether in the circumstances the sanction applied was appropriate given the evidence presented, and in consideration of any mitigation that was presented
- b) Where the ground of appeal is procedural failure, the panel will also consider if there was any failure to follow the procedure that may have had a material effect on the original decision

The possible outcomes of the appeal hearing are as follows:

- Uphold the original decision in its entirety – i.e. no change
- uphold the original decision in terms of the warning however issue a new development plan
- Uphold the appeal – i.e. revoke the original decision and replace it with the following:
  - issue a lower level warning - with or without a development plan
  - no formal action to be taken - with or without a development plan

Where the appeal against dismissal is upheld the employee's employment will be reinstated from the date of dismissal and continuity of service will be maintained.

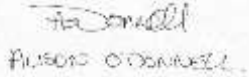
### **Hearing to reconvene**

- Chair of the appeal panel will deliver the decision
- The decision will be confirmed in writing

**The appeal panel's decision will be final and there will be no further right of appeal to the employee within the Trust unless where the case has been referred to a re-hearing in which case the employee will have the right to appeal against the decision made by the new panel.**

## Appendix 6 Training Needs Analysis

Training required to meet the policy requirements must be approved prior to policy approval. Learning and Development manage the approval of training.

<b>Training topic/title:</b>	Supporting Performance		
Type of training: (see Mandatory and Role Essential Training policy for descriptions)	<input type="checkbox"/> Not required <input type="checkbox"/> Mandatory (must be on mandatory training register) <input checked="" type="checkbox"/> <b>Role Essential</b> (must be on the role essential training register) <input type="checkbox"/> Desirable or Developmental		
Directorate to which the training is applicable:	<input checked="" type="checkbox"/> Directorate of Mental Health <input checked="" type="checkbox"/> Community Health Services <input checked="" type="checkbox"/> Enabling Services <input checked="" type="checkbox"/> Estates and Facilities <input checked="" type="checkbox"/> Families, Young People, Children, Learning Disability and Autism <input checked="" type="checkbox"/> Hosted Services		
Staff groups who require the training: (consider bank /agency/volunteers/medical)	All line managers		
Governance group who has approved this training:	Workforce Development Group	Date approved:	January 2025
Named lead or team who is responsible for this training:	HR Advisory		
Delivery mode of training: eLearning/virtual/classroom/informal/adhoc	Virtual		
Has a training plan been agreed?			
Where will completion of this training be recorded?	<input checked="" type="checkbox"/> uLearn <input type="checkbox"/> Other (please specify)		
How is this training going to be quality assured and completions monitored?	Workforce Development group will review compliance managers to monitor staff uLearn accounts		
<b>Signed by Learning and Development Approval name and date</b>			Date: 24.1.25

## Appendix 7 The NHS Constitution


- The NHS will provide a universal service for all based on clinical need, not ability to pay.
- The NHS will provide a comprehensive range of services.

<b>Shape its services around the needs and preferences of individual patients, their families and their carers</b>	<input type="checkbox"/>
<b>Respond to different needs of different sectors of the population</b>	<input type="checkbox"/>
<b>Work continuously to improve quality services and to minimise errors</b>	<input checked="" type="checkbox"/>
<b>Support and value its employees</b>	<input checked="" type="checkbox"/>
<b>Work together with others to ensure a seamless service for patients</b>	<input checked="" type="checkbox"/>
<b>Help keep people healthy and work to reduce health inequalities</b>	<input checked="" type="checkbox"/>
<b>Respect the confidentiality of individual patients and provide open access to information about services, treatment and performance</b>	<input type="checkbox"/>

## Appendix 8 Due Regard Screening Template

Section 1	
Name of activity/proposal	Supporting Performance Policy and Procedure
Date Screening commenced	7 January 2025
Directorate / Service carrying out the assessment	Human Resources
Name and role of person undertaking this Due Regard (Equality Analysis)	Sarah Tyers, Senior HR Advisor
Give an overview of the aims, objectives and purpose of the proposal:	
<p><b>AIMS:</b> One of the primary aims of the procedure is to encourage and support employees to maintain high standards of performance required by the Trust. The policy sets out the Trust's approach to supporting performance where there is a need to improve performance to support a permanent improvement in work performance. The procedure outlines the consequences of not meeting action plans which are agreed with the employee to support the need for improved performance. It is designed to ensure that employees are treated equitably, fairly and consistently by outlining a staged process and also ensuring that reasonable adjustments are explored.</p>	
<p><b>OBJECTIVES:</b> To support managers with employees where a need to improve performance is identified in a constructive and consistent manner whilst also supporting employees in being able to make permanent improvements in performance.</p>	
Section 2	
Protected Characteristic	If the proposal/s have a positive or negative impact please give brief details
Age	
Disability	The process ensures all issues of poor performance are managed consistently and fairly across the Trust with clear guidelines to be followed in every case. Employees with a disability are more likely to be referred into the policy, more likely that a need for improved performance would be identified, more likely that a disability may affect ability to carry out role. There is requirement to explore reasonable adjustments and consider additional support for employees with a disability. Policy makes reference to the Reasonable Adjustment Policy for support with identifying and recording adjustments, this would include using the Health Passport and liaising with agencies such as Access to Work.
Gender reassignment	
Marriage & Civil Partnership	
Pregnancy & Maternity	
Race	
Religion and Belief	
Sex	
Sexual Orientation	
Other equality groups?	
Section 3	
Does this activity propose major changes in terms of scale or significance for LPT? For example, is there a clear indication that, although the proposal is minor it is likely to have a major affect for people from an equality group/s? Please tick appropriate box below.	
	No
High risk: Complete a full EIA starting click <a href="#">here</a> to proceed to Part B	<b>Low risk: Go to Section 4.</b>
Section 4	
If this proposal is low risk please give evidence or justification for how you reached this decision:	
Key aspects of the Equality Act 2010 are embedded throughout the policy ensuring reasonable adjustments are considered. This may involve taking advice from Occupational Health or agencies such as Access to Work or Remploy about adjustments to support improved performance, these may	

include but are not limited to, specialist equipment, temporary or permanent adjustments to working hours, work pattern or work type that could improve the employee's situation. Equality monitoring has been incorporated in the overall policy compliance processes which aims to provide assurance that any potential adverse impact on any protected group during the implementation of the policy and associated procedures are identified and removed at the earliest opportunity.

Signed by reviewer/assessor	Sarah Tyers	Date	24 January 2025
<i>Sign off that this proposal is low risk and does not require a full Equality Analysis</i>			
Head of Service Signed		Date	28 January 2025

## Appendix 9 Data Privacy Impact Assessment Screening

<p>Data Privacy impact assessment (DPIAs) are a tool which can help organisations identify the most effective way to comply with their data protection obligations and meet Individual's expectations of privacy.</p> <p>The following screening questions will help the Trust determine if there are any privacy issues associated with the implementation of the Policy. Answering 'yes' to any of these questions is an indication that a DPIA may be a useful exercise. An explanation for the answers will assist with the determination as to whether a full DPIA is required which will require senior management support, at this stage the Head of Data Privacy must be involved.</p>		
<b>Name of Document:</b>	Supporting Performance Policy and Procedure	
<b>Completed by:</b>	Sarah Tyers	
<b>Job title</b>	Senior HR Advisor	<b>Date</b> 7 January 2025
<b>Screening Questions</b>	<b>Yes / No</b>	<b>Explanatory Note</b>
1. Will the process described in the document involve the collection of new information about individuals? This is information in excess of what is required to carry out the process described within the document.	No	
2. Will the process described in the document compel individuals to provide information about them? This is information in excess of what is required to carry out the process described within the document.	No	
3. Will information about individuals be disclosed to organisations or people who have not previously had routine access to the information as part of the process described in this document?	No	
4. Are you using information about individuals for a purpose it is not currently used for, or in a way it is not currently used?	No	
5. Does the process outlined in this document involve the use of new technology which might be perceived as being privacy intrusive? For example, the use of biometrics.	No	
6. Will the process outlined in this document result in decisions being made or action taken against individuals in ways which can have a significant impact on them?	Yes	Part of a formal process to appropriately manage an individual's employment.
7. As part of the process outlined in this document, is the information about individuals of a kind particularly likely to raise privacy concerns or expectations? For examples, health records, criminal records or other information that people would consider to be particularly private.	Yes	Part of a formal process to appropriately manage an individual's employment.
8. Will the process require you to contact individuals in ways which they may find intrusive?	Yes	Part of a formal process to appropriately manage an individual's employment.
<p><b>If the answer to any of these questions is 'Yes' please contact the Data Privacy Team via <a href="mailto:Lpt-dataprivacy@leicspart.secure.nhs.uk">Lpt-dataprivacy@leicspart.secure.nhs.uk</a></b>  <b>In this case, ratification of a procedural document will not take place until review by the Head of Data Privacy.</b></p>		
<b>Data Privacy approval name:</b>	S Ratcliffe	
<b>Date of approval</b>	30/01/2025	

Acknowledgement: This is based on the work of Princess Alexandra Hospital NHS Trust