

## Managing Poor Performance Policy

**CONTROLLED DOCUMENT**

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| <b>CATEGORY:</b>                                | Policy   |
| <b>CLASSIFICATION:</b>                          | Human Resources  |
| <b>PURPOSE</b>                                  | The document sets out a policy framework in the event of a member of staff's work performance dropping below a level considered to be satisfactory |
| <b>Controlled Document Number:</b>              | <b>501</b>   |
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| <b>Controlled Document Manager:</b>             | Director of Human Resources  |
| <b>Approved By:</b>                             | Chief Executive Advisory Group   |
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| <b>Distribution:<br/>Essential Reading for:</b> | Executive Directors<br>Divisional Directors<br>Directors of Operations<br>Heads of Service<br>Line Managers<br>HR Team                             |
| <b>Information for:</b>                         | All members of staff<br>Trade Union Representatives  |

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## **1.0 Policy Statement**

- 1.1 University Hospitals Birmingham NHS Foundation Trust (the 'Trust') is committed to 'Delivering the Best in Care'. This policy supports this vision.
- 1.2 Most performance or capability issues can be identified and assessed through normal management processes e.g. regular communication, supervision and appraisal. However, there may be occasions when problems relating to an individual's performance may need a more structured approach. Therefore, the purpose of this policy and its associated procedural documentation is to:
  - 1.2.1 assist, enable and encourage all members of staff to achieve and maintain high standards of job performance;
  - 1.2.2 identify appropriate support and training needs to achieve the expected standards;
  - 1.2.3 support and delivery of the Trust's Vision and Values;
  - 1.2.4 ensure consistency and fairness of treatment.

## **2.0 Scope**

- 2.1 The policy and its procedural documents apply to all members of staff employed by the Trust, including those on Locate contracts, but excludes medical staff whose performance issues are managed under the Trust Policy for Maintaining High Professional Standards in the Modern NHS.
- 2.2 This Policy does not apply to conduct issues, which must be managed through the Disciplinary Policy and associated Procedure; any warnings mentioned in this policy or procedure have no relation to those set out in the Disciplinary Procedure. Ill health matters must be managed through the Sickness Absence and Attendance Policy and associated Procedure.
- 2.3 Any member of staff identified through the appraisal process as not meeting the required standard for their role will be subject to performance management under this Policy and Procedure. This may mean that any due increment is deferred (please see the Pay Progression Procedure).

## **3.0 Framework**

- 3.1 This section describes the broad framework for the Managing Poor Performance Policy. Detailed instructions are provided in the associated procedure.
- 3.2 The Executive Director of Delivery shall approve all procedural documents associated with this policy, and any amendments to such documents, and is responsible for ensuring that such documents are compliant with this policy.

- 3.3 It is important to address poor performance issues when they first become apparent. and not deferred until an appraisal meeting but will form part of the appraisal discussions.
- 3.4 Definitions
- 3.4.1 “Capability” is defined by the Employment Rights Act 1996 s.98(3)(a), as being ‘assessed by reference to the skills, aptitudes, health or any other mental or physical qualities’ required to undertake a role. Lack of capability is likely to mean that a member of staff is unable to maintain the standard of performance required to meet the job description/person specification of the post.
- 3.4.2 “Unsatisfactory performance” describes the circumstances when a staff member’s level of performance fails to reach the reasonable expectation of the employer. Unsatisfactory performance may come about as a result of a lack of, or decline in, ability, effort, application, attention or commitment.
- 3.4.3 The Trust reserves the right to remove an individual from any duties or post where it is considered that their performance may be a risk to the public, patients, property or other members of the workforce. The individual will receive full training prior to returning to these duties. Where training does not result in full competence, the formal final meeting procedure will be followed.
- 3.5 Concerns regarding poor performance must be raised initially as part of normal day to day management and every effort made to resolve any issues at an early stage. If concerns persist, the formal stages of the Managing Poor Performance Procedure must then be followed. This may include any adaptations to the role, training, coaching etc.
- 3.6 Managers will provide clear explanation to the member of staff of where they are not meeting the required standards of their job using their job description/person specification to explain and will work with the member of staff to set fair and reasonable objectives. The period of time to improve and level of support must be balanced against the needs of the service and safety of patients. Any discussions will be confirmed in writing.
- 3.7 The Trust reserves the right to remove an individual from any duties or post where it is considered that their performance may be a risk to the public, patients, property or other members of the workforce. The individual will receive full training prior to returning to these duties. Where training does not result in full competence, the formal final meeting procedure will be followed.
- 3.8 A member of staff identified as not meeting the required standard for their role and therefore subject to performance management may, through the Appraisal process, have any due increment deferred (please see the Deferring Pay Progression Policy & Procedure).

- 3.9 This policy and the associated procedure does not apply to conduct issues, which must be managed through the Disciplinary Policy and Procedure. Any warnings mentioned within this policy or the associated procedure have no relation to those set out in the Disciplinary Procedure.
- 3.10 Ill health matters must be managed through the Sickness Absence and Attendance Policy and Procedure.
- 3.11 Overview of the Managing Poor Performance Procedure
- 3.11.1 The procedure has 3 stages: Informal stage, First Formal Meeting and Final Formal Meeting.
- 3.11.2 The Informal stage includes day to day management by the line manager of a member of staff whose performance does not meet the required standards. This stage does not require a formal hearing, however notification of the initiation of the procedure must be documented in a letter from the line manager to the member of staff. The content of the letter must provide details of the next stage of the procedure, if the member of staff fails to meet the required standards.
- 3.11.3 The First Formal Meeting does not require a formal hearing, but a meeting must be held for the member of staff to be clear on the expected performance standards and that the next stage could result in a termination of contract.
- 3.11.4 The Final Formal meeting will require a formal hearing and the panel must include an individual with an appropriate professional background to make a decision on the capability of the individual. This meeting will normally result in the dismissal of the member of staff and therefore a manager with dismissing officer rights must chair the panel.
- 3.11.5 An exception to the above procedure is where an individual has been supported through the preceptorship programme and/or a controlled drugs administration programme and has, despite training and support, been unable to meet their contractual expectations. Here, the individual could go directly to the Final Formal Meeting without the First Formal Meeting where there is clear evidence that they have failed to meet the minimum standards including passing their drug assessments following an appropriate period of support.
- 3.11.6 A further exception to the above procedure is where an individual has been unable to successfully complete their Healthcare Practitioner Induction Programme or Care Certificate, despite training and support. Here, the individual would go directly to the Final Formal Meeting without the First Formal Meeting.

3.11.7 The Trust reserves the right to adopt a separate capability process where the matter to be determined is not specifically one of managing poor performance but to assess the capability of an individual to meet the competencies of a role at a specific banding, in cases where the individual has not performed in that role for a significant period of time. This capability process would be designed appropriate to the circumstances, and in conjunction with the member of staff, HR and any Staffside representative, giving due regard to fairness, consistency and reasonableness in the competencies to be met. Full details of the procedure to be applied would be set out to the member of staff before the capability assessment commenced. The relevant Executive Director must give approval for a capability process to be adopted.

## **4.0 Duties**

### **4.1 Executive Director of Delivery**

The Executive Director of Delivery is responsible for the policy and its implementation through the Director of Human Resources and has the authority to approve all other procedural documents associated with this policy and any amendments to such documents, and is responsible for ensuring that such documents are compliant with this policy.

### **4.2 Executive and Divisional Directors**

Executive Directors and Divisional Directors shall ensure the following requirements are met within their areas of responsibility:

- 4.2.1 Ensure that all staff within their Division that hold line management responsibilities are familiar with the Managing Poor Performance Policy and are trained in applying all elements of its associated procedural documentation; and
- 4.2.2 Ensure that those of their workforce that hold line management responsibilities work effectively and consistently with Staff Side representatives in the application of this policy and its associated procedures.

### **4.3 Director of Human Resources**

The Director of Human Resources shall ensure that:

- 4.3.1 The provision and maintenance of the Managing Poor Performance Policy and its associated Procedure and guidance is included as part of the Trust's portfolio of controlled documents;
- 4.3.2 All Human Resources staff are aware of, and competent, to deliver their responsibilities arising from these documents, providing leadership and support as required; and

4.3.3 Appropriate training and support for management is provided for their implementation of the procedural element of this controlled document.

#### **4.4 Line Managers**

Line managers carry responsibility for effectively and fairly implementing and operating this Policy within their sphere of control. Additionally, all managers will be responsible for ensuring that:

4.4.1 They are familiar with the Managing Poor Performance Policy and its application within their area of responsibility;

4.4.2 They attend the appropriate training and updates;

4.4.3 They work in a collaborative fashion in implementing this Policy and associated Procedure with Staff Side representatives;

4.4.4 They are sensitive to the requirements of the Trust's Equality and Diversity Policy in their dealings with members of staff; and

4.4.5 Performance and capability issues are reported to Professional Bodies, where appropriate.

#### **4.5 Member of staff Responsibilities**

All members of staff:

4.5.1 Have a contractual obligation to meet the required Trust standards of performance in line with their job description and Trust policies and procedures;

4.5.2 Must show commitment to improving their performance where necessary to meet the required standards and in accordance with the Trust's visions and values; and

4.5.3 Are responsible for advising their line manager or other appropriate individual as soon as possible of any work related or personal issues that may impact on their capability to fulfil their job description.

### **5.0 Implementation and Monitoring**

5.1 The Managing Poor Performance Policy and associated procedural documents will be circulated throughout the Trust to ensure accessibility via Trust Newsletters, Intranet and Team Briefings.

5.2 Appendix A provides full details on how the policy will be monitored by the Trust.

## **6.0 References**

Employment Rights Act 1996

NHS Terms and Conditions of Service Handbook

Nursing and Midwifery Council Guidelines for preceptorship.

## **7.0 Associated Policy and Procedural Documentation**

Appraisal Policy

Appraisal Procedure

Disciplinary Policy

Disciplinary Procedure

Equality and Diversity in Employment Policy

Managing Poor Performance Procedure

Pay Progression Procedure

Sickness Absence and Attendance Policy

Sickness Absence and Attendance Procedure

Trust Vision & Values



## Appendix A

## Monitoring Matrix

| <b>MONITORING OF IMPLEMENTATION</b>  | <b>MONITORING LEAD</b>      | <b>REPORTED TO PERSON/GROUP</b> | <b>MONITORING PROCESS</b>                           | <b>MONITORING FREQUENCY</b> |
|--|-----------------------------|---------------------------------|---|-----------------------------|
| Information relating to the application of the formal procedure to manage poor performance               | Director of Human Resources | Board of Directors              | Reported within the Trust's Annual Workforce Report | Annually                    |
| Number of staff members being managed under the formal stages of the Managing Poor Performance Procedure | Director of Human Resources | Board of Directors              | Reported within the Trust's Annual Workforce Report | Annually                    |