

Managing Poor Performance Policy

July 2026



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Document History	
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Additional Guidance

1. [Guidance on the process to be followed at an appeal hearing.](#)

(The additional guidance is not part of the policy but is available to assist those involved in the policy. It can be found on the intranet or by clicking on the links above)

1. Objectives and scope

- 1.1 Reading Borough Council encourages all of its employees to maintain high standards of performance at work, and managers to manage the performance of staff proactively.
- 1.2 The purpose of this policy is to ensure that poor work performance is managed in a timely, effective, fair, consistent and supportive way in order to help employees achieve the required standard. This policy provides a constructive and standardised framework to support managers in intervening where poor performance has been identified.
- 1.3 The following important principles are encompassed within this policy:
 1. it is based on established case law and has been agreed between the Council and the recognised trade unions
 2. it will not contradict any current or future national agreement
 3. employees will be informed of the Council's policy, in particular through the induction process.
 4. employees will be informed of the standards expected of them
 5. employees will be given an opportunity to state their case before any decision is reached
 6. the informal process will have been exhausted before the formal procedure is initiated
 7. an employee may be accompanied by a trade union representative or a work colleague
 8. there will be a right of appeal against formal action taken
- 1.4 The Council's objective is to ensure that employees are given the opportunity to improve and are provided with support and training, where appropriate, to help them reach the required level of performance.
- 1.5 All members of staff should understand what is expected of them in their role and have clear objectives set at their performance review meetings, as well as regular feedback on their performance at 1-1s/supervision meetings throughout the year.
- 1.6 The Council defines poor performance as the gap between the Council's expectations of the job holder in respect of their job role, as defined by the job description, person specification and objectives, and the employee's actual performance in their job.
- 1.7 Where poor performance is due to behaviour which indicates a deliberate or wilful lack of care and attention, or negligence, the Disciplinary Policy should be followed. Concerns about an employee's capability as a result of sickness absence or related to a long term health condition should be dealt with under the Managing Sickness Absence Policy.

- 1.8 This policy applies to all employees of the Council, including those on permanent, temporary, full-time, part-time or fixed-term contracts, job sharers, and those on non-standard terms of employment, with the exception of those below.
- 1.9 This policy does not apply to:
- the Head of Paid Service, the Section 151 Officer or the Monitoring Officer.
 - employees in their probation period (covered by the Probation Scheme).
 - agency workers.
 - staff employed by schools who are covered by separate terms and conditions relating to their employment.
- 1.10 The Council reserves the right to implement this policy at any stage as set out below, taking into account the alleged poor performance of an employee. Employees will not ordinarily be dismissed for a first poor performance matter.
- 1.11 Where time limits are referred to in this policy, there will be a commitment to honouring them and proceeding without unreasonable delay, however, they may need to be extended, depending on the circumstances, due to the Council's operational requirements or the absence of any relevant individuals. The employee will be kept informed of any extensions to time limits.
- 1.12 The Council reserves the right to amend, remove or replace this policy at any time after effective and meaningful consultation with Joint Trade Unions.

2. Responsibilities

2.1 Employees should:

- ensure that they perform the tasks and responsibilities of their role to the best of their ability seeking to achieve the standards of performance required by the Council.
- bring to their managers attention any issues which may affect their performance as soon as they occur, so support, if appropriate, can be given.
- raise training and development issues with their line manager as part of their appraisal and one to ones.
- speak to HR if they do not receive regular 1-1s or an annual appraisal.
- co-operate with any discussions or reviews into their poor work performance.
- co-operate with any training or support offered to assist in bringing their performance up to the standard required.

2.2 Managers should:

- ensure that new staff are properly inducted into the Council and service area.
- make rigorous use of the Probation Scheme to ensure new employees have the right capabilities, attitudes and behaviour;
- ensure that all staff have a job description, which reflects what is required of their role and is reviewed and updated as necessary.

- where necessary, if employees do not have internet access, inform them where hard copies of the Managing Poor Performance Policy and any other relevant policies, rules and standards are kept in their workplace for reference without having to ask anyone for a copy.
- ensure that any reasonable adjustments are agreed with the employee and confirmed in writing by HR to both the employee and manager regarding the provision of information or instructions. Any adaptations to the role or working arrangements, have been implemented and accurately recorded in the employee's Health and Wellbeing Passport, with ongoing ownership and review by the employee and manager.
- ensure that all staff are regularly appraised with a concluding annual performance review with clear SMART (specific, measurable, achievable, realistic, time bound) objectives and have a Personal Development Plan which supports their development.
- ensure that staff have regular feedback on their performance through 1-1s and that the standards expected are clear, have been effectively communicated and are consistent with other like roles.
- bring any concerns about an employee's performance to their attention as soon as the issue becomes apparent.
- establish the reasons for the poor performance, and where an investigation is required, ensure this is undertaken in a fair and timely manner.
- ensure that corrective informal action is taken where appropriate.
- seek advice from HR where it is likely that formal action will be taken under this policy.
- understand their duty of care to all staff, including the importance of recognising and appropriately managing situations where a colleague's performance may impact others.

3. Informal management of poor performance

- 3.1 Informal action should be used in the first instance to improve performance before formal action is considered. It is anticipated that the majority of poor performance issues can be dealt with informally. The exception will be where unsatisfactory performance is sufficiently serious to warrant bypassing informal action altogether.
- 3.2 Line managers are best placed to talk to their employees, to listen to their concerns, coach and support them, and check they meet their targets, as well as ensuring they are engaged and committed.

4. Considerations before formal performance action

Before initiating formal action in relation to poor performance, managers should ensure that all relevant contextual factors have been explored and addressed.

4.1 Role clarity and expectations

Managers should consider whether the individual clearly understands their job duties and responsibilities, and whether the workload, duties and level of responsibility are within

reasonable expectations for the role. Where concerns about workload or role scope have been raised, these should have been given proper and reasonable consideration. Managers should also ensure the individual has reviewed and understands any relevant organisational policies, such as the Workload Policy.

4.2 Work environment and organisational factors

It is important to consider whether external factors within the work environment may be impacting performance. This may include organisational change, team dynamics, poor working relationships, or lack of access to appropriate equipment, resources or facilities necessary to carry out the role effectively.

4.3 Health, wellbeing and personal circumstances

Managers should reflect on whether there are any personal or health-related issues that may be temporarily affecting performance. Where health issues are identified or suspected, Occupational Health advice should have been sought where appropriate. In addition, any suitable reasonable adjustments should have been identified, implemented and monitored in line with organisational and statutory requirements.

4.4 Support, development and supervision

Consideration should be given to whether the individual has received adequate support to perform their role. This includes access to relevant training, learning and development opportunities, and on-the-job coaching. Managers should also ensure that appropriate levels of supervision have been provided, alongside regular, constructive feedback. Annual appraisal discussions should have taken place, with clear, realistic SMART objectives agreed and documented.

4.5 Performance feedback and awareness

Before progressing to formal action, managers should ensure that the individual has been made aware that their level of performance is considered unsatisfactory and understands the areas of concern. This includes having had opportunities to discuss performance issues informally and to understand what improvement is required.

4.6 Distinguishing capability from conduct

Finally, managers should consider whether there is evidence that the poor performance arises from a lack of capability, support or understanding, or whether it appears to be the result of a lack of motivation, poor attitude, or a deliberate choice not to perform. In cases where the issue is more appropriately characterised as a conduct matter, consideration should be given to whether it should instead be managed under the Disciplinary Policy.

4.7 Resolution

Having considered the potential causes of poor performance, managers should remedy any issues within their control that are impacting on performance and escalate any issues to a more senior manager for resolution if required. This should be formally recorded at the next 1-1 and appraisal and as appropriate in an email to the individual.

4.8 Right to be accompanied

Informal action is part of the normal routine discussion between an employee and their line manager and not part of formal action. Individuals are not statutorily entitled to be accompanied by a workplace colleague or a trade union representative/official at any meetings to discuss their performance at the informal stage. They may nevertheless find it helpful to seek advice and support from a colleague or trade union representative if they wish to do so.

5. Formal management of poor performance

5.1 Initial meeting

- 5.1.1 If, having taken reasonable steps to investigate and address the performance issues through informal action, performance still remains poor, the line manager must arrange a formal meeting with the employee to discuss their performance. The manager will submit the [Poor Performance Form](#) to HR in order to seek HR advice and attendance at meetings under the formal stage.
- 5.1.2 Where this policy is to be applied to accredited trade union representatives, no formal action should be taken until the case has been discussed, with the employee's prior consent, with a full-time trade union representative of the recognised trade union who is employed by the Council, or a trade union official employed by the recognised trade union. If the employee does not consent to such a discussion taking place, formal action will be initiated.
- 5.1.3 An invitation to an initial meeting under the formal stage of this policy must be in writing, setting out the date, time and location of the meeting, giving a minimum of five working days' notice. It should also set out a clear explanation of the reasons for calling the performance meeting, what has already been discussed informally and the possible outcomes.
- 5.1.4 The letter must also state that the employee has the right to be accompanied at the meeting by a trade union representative or a workplace colleague. Reasonable adjustments may be needed for a worker with a disability (and possibly for their companion if they are disabled), for example the provision of a support worker or advocate with knowledge of the disability and its effect, in addition to a companion. The employee must tell the manager by whom they will be accompanied at least three working days before the meeting. The employee should contact the trade union as soon as possible to allow for representation.

- 5.1.5 The employee and their companion should make every effort to attend the meeting. Where the employee is unable to attend the meeting and provides a good reason for this, the meeting will be rescheduled to another day providing the employee requests the meeting be arranged giving an alternative time which is reasonable and within five working days of the original date. If a reasonable alternative date is proposed by the employee, it will not be unreasonably refused. Unless there are special circumstances mitigating against it, if the employee is unable to attend the rearranged meeting, it will take place in the employee's absence. In exceptional circumstances the employee's companion may attend and will have the opportunity to speak on the employee's behalf in their absence. The employee may also make written submissions provided these are received prior to the start of the meeting.
- 5.1.6 Where the companion is not available to attend the meeting, it will be rescheduled provided the employee requests the meeting be rearranged giving an alternative time which is reasonable and within five working days of the original date. If a reasonable alternative date is proposed by the employee, it will not be unreasonably refused. The meeting will only be rescheduled for the unavailability of the companion once. If the companion is subsequently unable to attend the rearranged meeting, the manager can proceed with the meeting on that date. The employee may choose an alternative companion provided that the alternative companion is available to attend the rescheduled meeting.
- 5.1.7 The Council considers it is good practice to allow the companion to participate as fully as possible in the meeting. However, the companion is not allowed to answer questions put to the employee on the employee's behalf or address the meeting if the employee does not wish it.
- 5.1.8 If the employee has not requested to be accompanied to the meeting, the manager will check at the start of the meeting that they understand they have the right to be. If they decline to be accompanied, a note will be made to that effect.
- 5.1.9 The intent of the initial meeting is to try and understand why the problem exists and what the trigger, if any, was for the poor performance. The tone of the meeting should be consensual and supportive, seeking to understand the situation and to come up with a joint solution. The manager will clearly explain the issues/problems and consequences of poor performance. This will include clear specific examples of where the performance has not met the required standard. This meeting will not be recorded and a notetaker will not attend the meeting. The manager, HR, the employee or their companion may take their own notes using the 1:1 form if they wish to do so.
- 5.1.10 The employee will be given an opportunity to respond to any criticisms of their performance and to put forward any explanation they may have for the matters identified by the manager as poor performance including their current workload. The outcome of the initial meeting may be:
- a decision to take no further action.
 - the implementation of an improvement plan, designed to bring the employee's performance up to an acceptable level, and the possible issue of a first written warning.

- a decision to consider flexible working to assist the employee, on either a temporary or permanent basis under the Flexible Working Policy
- a decision to refer the matter for investigation under the Disciplinary Policy.

5.1.11 The outcome of the meeting will be confirmed in writing to the employee within five working days of the meeting. If appropriate, it will include a first written warning that performance is currently not acceptable and warn of the possible consequences of failure to reach the satisfactory improvement level/standards (i.e. progression to the next stage of this policy which could result in a final written warning and ultimately to dismissal). Usually, the first written warning will remain live for six months from the date it is issued although there may be occasions where it is appropriate to shorten or lengthen this six-month period. If appropriate, the letter will also confirm the employee's right of appeal against the decision to issue a first written warning.

5.1.12 If appropriate, the letter will include details of the improvement plan which will set out:

- the improvement required and timescale within which it is to be achieved i.e. 8 – 12 weeks.
- any further investigation into health issues and any reasonable adjustments that may assist improvement which may necessitate a referral to Occupational Health.
- the support arrangements agreed including the additional supervision and/or training which will be provided during the review period.
- a first written warning.
- the time and date of the first review meeting to discuss the improvement plan.

5.2 Review meeting

5.2.1 At the end of the period of time set out in the improvement plan, a review meeting will be held to consider if the employee has reached the required standard of performance. The invite to the review meeting must be in writing, setting out the date, time and location of the meeting, giving a minimum of five working days' notice. It should also set out a clear explanation of the possible outcomes of the meeting. The employee will have the right to be accompanied to the review meeting by a workplace colleague or a trade union representative. The provisions in paragraphs 5.1.2 to 5.1.10 will also apply when arranging the review meeting.

5.2.2 The outcome of the first review meeting may be:

- a decision to take no further action.
- a decision to refer the matter for investigation under the Disciplinary Policy
- a further period of monitoring/adjustments to the improvement plan
- the issue of a final written warning where appropriate
- a decision to explore opportunities for redeployment to an alternative role.

5.2.3 If the performance has reached a satisfactory standard no further action will be taken. However, it may be appropriate to set a further review date to ensure that performance is maintained. The first warning remains live for six months and any further poor performance in that period will be considered and may lead to a final written warning being issued.

- 5.2.4 It is possible that the employee may be making a concerted effort to improve and has the potential to perform the job satisfactorily but has not quite reached the standard required. In these circumstances it may be reasonable to review the targets and whether these are achievable and consider extending the duration of the period set for the employee to reach the required standard, and the period of the first written warning, and adjust timescales and review dates accordingly. Please see timescales in 5.2.3.
- 5.2.5 The outcome of the meeting where there has been limited and/or insufficient improvement will be a further period of monitoring, adjustments to the improvement plan as appropriate and the issue of a final written warning. The final written warning will be live for 12 months from the date it is issued although a longer period may be given in certain circumstances. The letter confirming the final written warning will make it clear that failure to reach an acceptable standard of performance within the additional monitoring period, may lead to a capability meeting at which the employee may be dismissed.
- 5.2.6 Usually the outcome of the second review meeting will be confirmed in writing to the employee within five working days of the meeting. If appropriate, the letter will also confirm the employee's right of appeal against the decision to issue a final written warning.

5.3 Alternatives to dismissal

- 5.3.1 If, after a final written warning, the individual has still failed to make sufficient improvement despite being given a reasonable opportunity and support to do so, the possibility of transferring the individual to another job that is more suited to their capabilities should be explored. The employee will need to consent to redeployment and to any possible reductions in grade and salary.
- 5.3.2 If it becomes clear that there are no suitable alternatives or the employee rejects the offer, a capability meeting should be arranged.

5.4 Capability meeting

- 5.4.1 If an employee has been issued with a final written warning under this policy that remains live and the employee's manager believes that their performance is still not acceptable, the matter will be referred to a capability meeting. The capability meeting will be chaired by a manager who has not been involved in the matter (Chair). The Disciplinary Policy provides more information. The Chair will be advised by an HR professional.
- 5.4.2 The notice to attend a capability meeting must be in writing, with the letter setting out the date, time and location of the meeting, giving a minimum of five working days' notice. It should also set clearly an explanation of the reason for calling the meeting and possible consequences, which include the employee's dismissal. It must also state that the employee has the right to be accompanied by a trade union representative/official or a workplace colleague. The provisions applying to the companion in paragraphs 5.1.4 to 5.1.8 also apply to the capability meeting.

- 5.4.3 The Chair should arrange for an impartial colleague to take notes. If it is intended that the meeting will be recorded (with any video recording and AI assistance switched off) to provide a transcript to assist the notetaker, the Chair will check that all the individuals attending the meeting consent to the recording before the recording is started. If any person objects to being recorded, the meeting will not be recorded. The Chair should also ensure that the employee and the notetaker are aware that any breaches of confidentiality could lead to disciplinary action.
- 5.4.4 The purpose of the capability meeting is to consider:
- if there has been a thorough and reasonable investigation into the reasons for the poor performance.
 - if the lack of performance is fully supported by reliable evidence.
 - the interventions which have been put into place (where appropriate) to help the employee improve.
 - if the timescales for improvement were reasonable.
 - the attempts that have been made to explore a transfer to an alternative role.
 - the likelihood that a further period of monitoring would lead to acceptable performance (in which case the meeting could be adjourned to enable this).
 - any submissions that the individual or their companion may wish to make.
- 5.4.5 If the Chair concludes that they reasonably believe in the light of the evidence that the employee's skillset is a poor fit to the role, or if the prospect of the employee improving within a reasonable timescale is unlikely, making them unsuitable for the job with no prospect of that changing, they will dismiss the individual.
- 5.4.6 Following the capability meeting, the notetaker will review the notes, and the transcript if necessary, and produce a finished draft usually within two working days of the meeting. The notetaker will send the notes to the Chair and HR for their approval. The Chair will send the notes to the employee usually within five working days of the meeting. The employee will be given usually three working days to provide any suggested amendments. Where the Chair and/or HR do not agree any suggested amendments made by the employee, the employee's suggested amendments will be included in square brackets to reflect that they are not agreed amendments. A final version of the notes will usually be sent to the employee within a week of receipt of the suggested amendments. The Chair (or HR) will arrange for any recording, transcript or AI assistance to be deleted once the employee has had an opportunity to suggest any amendments to the notes and the notetaker has produced a final version.
- 5.4.7 Usually the outcome of the meeting will be conveyed in writing within five working days of the capability meeting setting. If the outcome is dismissal, the reasons for the dismissal and the right of appeal will be set out in full. Where a decision to dismiss is made, the dismissal will be with the appropriate contractual notice.

5.5 Appeal

- 5.5.1 An employee who is given a warning or is dismissed under this policy has a right of appeal. The appeal should be sent in writing to the Chair and set out the grounds on which the employee believes that the decision was flawed, unfair or the sanction

inappropriate (providing supporting evidence where appropriate). The appeal must be made within five working days of receiving written confirmation of the written warning or dismissal.

- 5.5.2 The appeal will be heard by a manager (Appeal Chair) who may be more senior to the Chair, but not in all circumstances depending on the situation and availability of individuals and will have had no prior involvement. Further information is set out in the Disciplinary Policy. The Appeal Chair will be advised by an HR professional. The provisions relating to a notetaker and any recording are set out in paragraphs 5.4.3 & 6.
- 5.5.3 Appeal meetings will normally take place within 14 days of receipt of the employee's written notice of appeal. The employee may be accompanied by a workplace colleague or a trade union representative/ official. The provisions set out in 5.1.4-5.1.8 apply to appeal meetings. Guidance for the process to be followed at the appeal meeting is available on the intranet or by clicking [here](#).
- 5.5.4 The Appeal Chair will consider any representations made by the employee and the employee's companion. They must also consider representations made by the Chair.
- 5.5.5 Upon completion of the appeal, the Appeal Chair will convey their decision to the employee. Usually, the decision will be confirmed in writing within five working days.
- 5.5.6 The outcome of the appeal is final. There is no further right of appeal.

5.6 Acts of Gross Incapability/Negligence

- 5.6.1 Where an employee commits an act of gross incapability or gross negligence which is so serious as to endanger the welfare and safety of colleagues, service users or members of the public, or which results in the loss or significant damage to a Council asset, a full investigation will take place. While the investigation is being conducted, it may be necessary to suspend the employee from duty following the same process used in the Disciplinary Policy.
- 5.6.2 Where the matter relates to an accredited trade union representative, removal from the workplace and/or suspension if necessary may occur without prior discussion of the case with a full-time trade union representative of the recognised trade union who is employed by the Council, or an official employed by the recognised trade union (as is the case for all other employees). The Director of HR and Organisational Development must be informed as quickly as possible as well as the trade union official.
- 5.6.3 Should the investigation conclude that matter is likely to be an act of gross incapability (rather than gross misconduct such as gross negligence), a formal capability meeting for gross incapability should take place. This may result in the individual being summarily dismissed (i.e. dismissed without notice).

6. Referrals to external bodies

- 6.1 The Council and its employees will comply with any obligations or regulations that require it to refer formal capability action taken under this policy to other relevant bodies as appropriate.
- 6.2 Where the Council believes that a referral to an external body may be necessary if incapability is found, the Council will endeavour to notify the employee of this possibility when inviting the employee to the capability meeting. It may not always be possible to give advance notice to the employee if further information comes to light during the capability meeting. The absence of advance notice of the possibility of having to notify an external body does not preclude the Chair from taking any capability action as a result of the capability meeting or the Council from notifying the relevant external body.
- 6.3 There is a specific statutory requirement for the Council to comply with the provisions of the Safeguarding of Vulnerable Groups Act 2006 when dismissing a member of staff working with children or vulnerable adults, where the dismissal has occurred on grounds which harmed, or placed at risk of harm, a child or vulnerable adult.
- 6.4 Where an individual is dismissed in these circumstances (or would have been dismissed had they not resigned, retired, been made redundant or transferred to a post not involving regulated activity) and where the circumstances of the case meet the relevant thresholds, the details of the case must be referred to the [Disclosure and Barring Service \(DBS\)](#). In certain circumstances it may be appropriate to refer the individual to the DBS before the capability meeting has taken place.
- 6.5 Where a registered manager, social worker or occupational therapist is suspended or dismissed on grounds of professional capability, their Director must ensure that the relevant regulator is notified [Health Care Professions Council \(HCPC\)](#) for Occupational Therapists or [Social Work England](#) for Social Workers.
- 6.6 Where this policy is adopted by schools and a teacher is dismissed (or would have been dismissed had they not resigned or left their post) on the grounds of capability which could be considered 'unacceptable professional conduct', the case should be referred to the [Teaching Regulation Agency](#)

7. Data protection, references and retention of employee records

- 7.1 The Council processes personal data collected under this Managing Poor Performance Policy (whether during the informal or formal stage) in accordance with its data protection policy. Such data is held securely and accessed by, and disclosed to, individuals for the purpose of the Managing Poor Performance Policy or for HR and management reasons. Any outcome will be held on an individual's personal record file which is retained for seven years after their date of leaving the Council. Inappropriate access or disclosure of employee data may constitute a data breach and should be reported in accordance with the data protection policy immediately. It may also constitute a disciplinary matter which may be dealt with under the Disciplinary Policy.

- 7.2 Employees should be aware that capability outcomes (including dismissal) may be disclosed to future employers if such information is requested from the Council.
- 7.3 The Council may have to disclose personal data to third parties, as appropriate, including but not limited to the police, regulatory bodies and any transfer under the Transfer of Undertakings (Protection of Employment) Regulations 2006 (TUPE).

MANAGING POOR PERFORMANCE POLICY

Agreed between the Council and the recognised trade unions.

Signed:

Kathryn Cook	Director for HR and Organisational Development
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Miriam Palfrey	Staff Side and Branch Secretary for Unison
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Kieran Magee	Joint Shop Stewards Committee and Branch Secretary/Convenor for Unite
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Alison McNamara	Education & Community Unions Panel and Branch Secretary for the National Education Union (NEU)
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Robert Stirling	Convenor for GMB
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