



# **Performance Improvement Policy**

*(Formerly Capability Policy)*

**2022 - 2023**

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## Version Updates

	Version	Date
Date on which the DEMAT consulted with unions	1	12 April 2021
Date approved by the DEMAT Personnel Committee	1	18 November 2021
Effective date of policy being fully adopted by DEMAT	1	1 December 2021
Policy to be reviewed by DEMAT Personnel Committee	1	November 2022

For all questions in relation to this policy please contact the HR Team on: [HRteam@demat.org.uk](mailto:HRteam@demat.org.uk).

## Scheme of Delegation

For all formal performance improvement meetings or formal review meetings, the following delegation model shall apply. If in doubt, please contact your HR advisor for advice.

Post	Meeting (lead)	Appeal (lead)
Central services senior leadership	CEO	Chair of Audit & Risk
Headteacher	CEO	Chair of Audit & Risk
School leadership positions (Deputy/Assistant Head)	Headteacher or appropriate Governor(s)	Member of Trust Executive
All other school posts	Member of Senior Leadership Team or Headteacher	Headteacher or Member of Trust Executive, if Headteacher has held the initial meeting
All other Central services posts	Head of Function or Directorate Lead	Member of Trust Executive

## Definitions

**Line Manager** refers to the employee's line manager within the respective school, team structure or central team. It may be appropriate for the Headteacher or another member of the Senior Leadership Team (either school or central team, depending on employee location) to assume the role of 'line manager' within the context of this policy and therefore these terms can be used interchangeably.

**Headteacher** also refers to any other title used to identify the Headteacher where appropriate.

**Employee** refers to any member of staff, namely teaching, support and central team staff employed to work within DEMAT.

**School** can be used interchangeably with 'Trust' within the context of this policy, if the employee being managed under this policy works within the central team.

**Performance Improvement Plan** is the plan set at the Stage 1 Formal Performance Improvement meeting. The targets set within this Plan should be used for the duration of the process.

**Representative** refers to a person chosen by the employee to accompany them, who shall be a trade union representative or a workplace colleague.

**Appeals Panel** may be convened to hear an appeal against an issue of a First or Final Performance Warning. Where possible the number of Governors/Senior Managers on the Panel will be equal to, or greater than, the decision maker(s) of the case being appealed.

**Working days** within the context of this policy means Monday to Friday, excluding Bank Holidays and, for term time only staff, school closure periods.

**Demotion** may be offered as an alternative to dismissal. The employee will be offered a lower graded position on different terms and conditions (with reflective pay and benefits deductions), with continuity of service.

**Re-engagement** may be offered as an alternative to dismissal. The employee will be offered an alternative position within the Trust, which may be on different terms and conditions (e.g. an alternative level, at a new location, a new area of work or different hours), with continuity of service.

## Associated Policies and Documents

- Probationary Procedure
- Sickness Absence Management Policy
- Grievance Procedure
- Disciplinary Policy

DEMAT HR policies can be accessed via our website at: <https://demat.org.uk/policies>.

## Introduction

### Aim

At DEMAT, we want everyone to have the opportunity to succeed within their roles, so ensuring that employees feel they have the right help, support and guidance to perform their role to a high standard is important. From time to time, additional support might be needed to ensure that we continue to provide and support high quality education at all times. This policy sets out how we manage performance at DEMAT and what the performance improvement process involves.

### Application of the policy

This procedure applies to all employees of DEMAT based either in schools or within the central team. It does not apply to agency workers or contractors, or those DEMAT employees who are within their probationary period. Instances of poor performance for employees within their probationary period should be dealt with under the Trust's Probationary Procedure.

If there are such significant performance concerns that it poses a risk to safeguarding or Health & Safety; it may be appropriate to deal with this under the Disciplinary Policy and procedure.

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## 1) Informal Process

Where a performance concern has been identified, the employee should be given the opportunity to improve before starting a formal performance improvement process.

This should include ensuring all training has been provided, coaching, giving feedback, and one to one supportive conversations. Line Managers should discuss any performance issues and confirm what the required standards are, and what support the employee might need to help achieve them. By having regular informal check-ins, the Line Manager can review progress and ensure any support to help the colleague improve is in place.

The informal stage may include agreeing an informal support plan, which would highlight areas of concern, consider how the employee will ensure they improve, with timescales and agreed support.

Generally, employees would not have a right to representation at an informal meeting: however, in some cases, this may be permitted.

If the required improvements have not been achieved following a reasonable amount of time (minimum of 2 weeks), and the reason has been identified as a performance issue, the formal performance improvement process would then be followed.

In certain instances, if performance is only just short of the required standards, then an extension to the informal stage may be considered, in order to facilitate performance reaching satisfactory standards as an alternative to progressing to the formal process.

## **2) Formal Process - Overview**

This formal performance improvement process applies only to employees about whose performance is subject to serious concerns which both the performance management (appraisal) process and the informal process outlined above have been unable to address.

The formal process has three stages: Stage 1, Stage 2 and Stage 3, with each stage lasting a minimum of 4 weeks. Should a review stage span across a school closure period i.e. school holiday, this period will not be counted towards the minimum 4 week review period, if the employee works term time only

A formal performance improvement meeting should be held with the employee by the employee's Line Manager or Headteacher/Senior Manager to begin the process and to set out the Performance Improvement Plan.

There is a formal review meeting held at the end of each stage to review progress. Notes will be taken at each formal meeting and a copy sent to the employee and any Representative within 5 working days following the meeting. If the outcome of a formal review meeting is a formal warning (either first or final depending on the stage) the employee must be offered the right of appeal (please see section 4 on 'Right of Appeal'). In some instances, it may be appropriate for the meeting lead to adjourn the review meeting and reconvene at a later date, if further time is required for consideration regarding the outcome of a review meeting.

Stages of the formal process should not be skipped, and employees should pass through the stages sequentially, unless they are already in receipt of a First or Final Performance Warning, where the process can be resumed at the relevant stage (for further information on this, please see section 3 below).

Where the employee is referred onto the next stage of the process as an outcome of the review meeting, they will also be provided with a copy of the updated, agreed Performance Improvement Plan.

Regular informal meetings should be held at each stage of the plan, between each formal review meeting. The informal meetings should take place between the employee and their Line Manager, to further support the employee and review progress against the Performance Improvement Plan.

## **3) Formal Process – Stages**

This section provides detail on all stages of the performance improvement process. Please refer to page 8 for a summary of the process and the possible outcomes at each stage.

### **Formal Performance Improvement Meeting**

As outlined above, the employee should be invited by their Line Manager or the Headteacher/Senior Manager to a formal performance improvement meeting, which instigates the formal process.

Employees should be invited to this meeting via written notification and should be given a minimum of 5 working days' notice of this meeting.

The formal review meeting will take place between the employee and the Line Manager, however a member of the Trust HR team or school Senior Leadership Team may also be present, where required.

During the meeting, the Headteacher/Senior Manager will:

- In the case of a teacher, identify the poor performance, including which of the Teachers' Standards expected of the teacher is not being met.
- In the case of non-teaching employees, identify the areas of poor performance.
- Ensure the employee is given an opportunity to ask questions, present evidence, respond to evidence and make representations.
- Establish the likely causes of poor performance including any reasons why any measures taken so far have not led to the required improvement.
- Give clear guidance on the improved standard of performance needed to ensure that the employee can be removed from formal performance improvement procedures, which may include the setting of new objectives focused on the specific area(s) of poor performance which need to be addressed. It will include any success criteria that are appropriate and the evidence that will be used to assess whether or not the necessary improvements have been made.
- Identify whether there are further measures which may improve performance and explain any support that will be considered and planned to help the employee, e.g. in-service training, visits to other schools, discussion with appropriate colleagues or professionals.
- Set out the timetable for improvement within Stage 1 of the process and explain how performance will be monitored and reviewed as well as the specific support and training that has been agreed as part of the Performance Improvement Plan. The timetable should cover a minimum period of 4 weeks, including allowing time for performance improvement to be measured.
- Formalise the Performance Improvement Plan, considering the points discussed above (e.g. required targets, additional training, timescales, etc). The targets set within this plan should be used for the duration of the process: however other elements of the Performance Improvement Plan may change at each review meeting (e.g. further support may be identified, or additional actions may be added, in order to reach the required target(s)).
- Establish and confirm the date for the Stage 1 review meeting. This confirmed date will be provided within the Formal Performance Improvement Meeting outcome letter, provided to the employee after the meeting. The review date will be a minimum of 4 weeks from the date of the start of formal Performance Improvement Plan.

### **Stage 1 Formal Review Meeting**

The formal review meeting will take place between the employee and the Line Manager: however a member of the Trust HR team or school Senior Leadership Team may also be present, where required.

The employee's progress against the targets set within the Performance Improvement Plan at the Stage 1 Formal Performance Improvement Meeting will be reviewed. If sufficient improvements have been made during the Stage 1 period the process can end, though it is important that performance is sustained.

Performance should continue to be monitored through day to day management and the performance management (appraisal) process. If at any point during the following 12 months, performance fails to meet the required standards for a sustained period, the process can be commenced again at Stage 1 of the process.

Should the employee's performance not improve, a First Performance Warning should be issued which will remain live on their file for 12 months. The employee has the right to appeal this outcome (see Right of Appeal below).

The employee will then proceed to Stage 2 of the performance improvement process and should be notified of this during the Stage 1 Formal Review Meeting.

The Performance Improvement Plan should be updated at the Stage 1 Formal Review Meeting to reflect any new timescales, additional training or support that the employee may require during Stage 2 of the process.

### **Stage 2 Formal Review Meeting**

Where the Performance Improvement Plan has not been met via Stage 1, and further targets have been outlined, a Stage 2 monitoring and review period will follow the issue of a First Performance Warning.

The same process outlined above for the Stage 1 formal review meeting should be followed for the Stage 2 formal review meeting. As before, employees are entitled to representation and notes will be taken.

If sufficient improvements have been made during the Stage 2 period, the process can end with no further warnings, though it is important that performance is sustained.

Performance should continue to be monitored through the performance management (appraisal) process. If at any point during the following 12 months, from the point at which the First Performance Warning was issued, performance fails to meet the required standards for a sustained period, the process can be commenced again at Stage 2 of the process.



Should the employee's performance not improve, a Final Performance Warning should be issued, which will remain live in their file for 12 months. The employee has the right to appeal this outcome (see Right of Appeal below).

The employee will then proceed to Stage 3 of the performance improvement process and should be notified of this during the Stage 2 Formal Review Meeting.

The Performance Improvement Plan should be updated at the Stage 2 Formal Review Meeting to reflect any new timescales, additional training or support that the employee may require during Stage 3 of the process.

### **Stage 3 Formal Review Meeting**

Where the Performance Improvement Plan has not been met via Stage 2, and further targets have been outlined, a final Stage 3 monitoring and review period will follow the issue of a Final Performance Warning.

For the Stage 3 formal review meeting, the same process outlined in the above two sections regarding a formal review meeting should be followed. As before, employees are entitled to representation and notes will be taken.

If sufficient improvements have been made during the Stage 3 period, the process can end with no further warnings issued, though it is important that performance is sustained.

Performance should continue to be monitored through the performance management (appraisal) process. If at any point during the following 12 months from the point at which the Final Performance Warning was issued, performance fails to meet the required standards for a sustained period, the process can be commenced again at Stage 3 of the process.

If performance has remained unsatisfactory, a decision will be made that the employee will be procedurally dismissed. The employee will be informed in writing as soon as possible of the reasons for the dismissal, the date on which the employment contract will end, the appropriate period of notice and whether the notice is to be served or there will be pay in lieu of notice, and the right of appeal.

As an alternative to dismissal, re-engagement or demotion may be offered in certain cases. The employee must then choose whether or not to accept the relevant offer. Should they not wish to accept the offer, then procedural dismissal will remain as the outcome.

As outlined above, there are 3 stages to the formal performance process. The below table provides a summary of the stages and possible outcomes, as outlined above:

Stage of Formal Process	Meeting Type	Outcomes	
Stage 1	<b>Formal Performance Improvement Meeting</b>	Employee is informed that they are being referred onto the formal performance improvement process. This meeting is used to set targets, establish the likely causes of poor performance, establish any support the employee requires. The formal Performance Improvement Plan is set. No formal warnings are issued at this meeting and there is no right of appeal.	
	<b>Stage 1 Formal Review Meeting</b>	<b>First Performance Warning</b>	If performance does not improve to the required standards or meet the targets of the Performance Improvement Plan, a First Performance Warning should be issued. Warning is live for a period 12 months. The employee will then proceed to Stage 2 of the process. The Performance Improvement Plan will be reviewed, and further actions, support and timescales adjusted or added for the Stage 2 review period.
		<b>No Formal Action</b>	No formal warning is issued as the Employee's performance has reached the required standards. The employee will be informed that they will be placed back onto the performance management (appraisal) process and performance will continue to be monitored for a period of 12 months, following the Stage 1 review meeting.
Stage 2	<b>Stage 2 Formal Review Meeting</b>	<b>Final Performance Warning</b>	If performance does not improve to the required standards or meet the targets of the Performance Improvement Plan, a Final Performance Warning should be issued. Warning is live for a period 12 months. The employee will then proceed to Stage 3 of the process. The Performance Improvement Plan will be reviewed, and further actions, support and timescales adjusted or added for the Stage 3 review period.
		<b>No Formal Action</b>	Final Performance Warning not issued as performance has reached an acceptable level and met the targets within the Performance Improvement Plan. The employee will be informed that they will be placed back onto the performance management (appraisal) process and performance will continue to be monitored for a period of 12 months from the point at which the First Performance Warning was issued.
Stage 3	<b>Stage 3 Formal Review Meeting</b>	<b>Dismissal (procedural)</b>	The employee is dismissed on grounds of poor performance. Employee will be entitled to notice or pay in lieu. <i>Re-engagement or demotion may be offered as an alternative to dismissal in certain cases.</i>
		<b>No Formal Action</b>	Notice of dismissal is not served as performance has reached an acceptable level and met the targets within the Performance Improvement Plan. The employee will be informed that they will be placed back onto the performance management (appraisal) process and performance will continue to be monitored for a period of 12 months from the point at which the Final Performance Warning was issued.

#### 4) Right of Appeal

The employee has a right of appeal against a decision to issue a formal warning or to dismiss, which should be submitted in writing within 10 days of the date on the outcome letter.

Appeals against formal written warnings or dismissal should be made in writing, stating the grounds for appeal. Details of to whom appeals should be directed will be included in the formal review meeting outcome letter.

The Appeals Panel will be convened in line with the Trust's Scheme of Delegation and, in normal circumstances, within 20 working days after receipt of the appeal. Employees will be invited to an appeal hearing via written notification.

There are two possible outcomes of the appeal process:

<b>Uphold</b>	The appeals manager agrees with the original findings and the initial decision taken will remain
<b>Overtun</b>	The appeals manager doesn't agree with a decision, and they overturn it with an appropriate alternative.

If the Appeals Panel overturns a decision to dismiss the employee, the employee may be:

<b>Reinstated</b>	The employee will go back into the position they held at the time they were dismissed, on the same terms and conditions, with continuity of service.
<b>Re-engaged</b>	The employee will be offered an alternative position within the Trust, which may be on different terms and conditions (e.g., an alternative level, at a new location, a new area of work or different hours), with continuity of service.
<b>Demoted</b>	The employee will be offered a lower graded position on different terms and conditions (with reflective pay and benefits deductions) with continuity of service.

If the Appeals Panel overturns a decision to dismiss the employee, the employee shall be informed immediately, and the notice of dismissal shall be immediately withdrawn.

The outcome will be confirmed in writing as soon as possible and usually within 5 working days of the hearing.

The Panel's decision is final and there is no further right of appeal.

## **5) Sickness Absence During Procedure**

It is important that sickness absence should not delay or avoid the use of formal performance improvement procedures. It is in the interests of all parties to address concerns about performance without undue delay. Arrangements will normally be made to seek medical advice from an occupational health (OH) adviser to assess the employee's health and fitness for continued employment at the school or central team office.

Consideration will be given to whether poor performance may be related to a disability and, if so, whether there are reasonable adjustments that could be made to the employee's working arrangements, including changing the employee's duties or providing additional equipment and/or training. We may also consider making adjustments to this procedure in some cases, e.g. moving from this procedure to procedures used by the school to terminate the employment of the employee on the grounds of ill health.

If an employee's medical condition is not serious enough to warrant a consideration of termination of employment on the grounds of ill health, the occupational health adviser will normally be asked to assess whether an employee absent through sickness is fit enough to attend a meeting under this procedure. If it is the professional opinion of the OH adviser and/or the employee's GP that they are not fit to attend a formal performance improvement meeting, further professional advice will be sought to establish a reasonable timescale to reschedule the meeting. If a reasonable timeframe cannot be given by OH or the employee's GP (e.g. over 4 weeks), then the employee may present written submission for consideration at a formal performance improvement meeting.

## **6) Grievances During Procedure**

Where an employee has a grievance against the way any person has conducted the procedure, this will normally be dealt with under the appeals process set out above. However, in very exceptional circumstances, where the behaviour of the Senior Manager is the cause of the grievance, it may be appropriate to suspend this procedure for a short period until the grievance has been considered.

## **7) Appendices**

Please refer to the following page for Appendix 1.

**Appendix 1. Performance Improvement Process Flowchart**

