

ABERDEEN CITY COUNCIL

COMMITTEE	Staff Governance Committee
DATE	22 January 2024
EXEMPT	No
CONFIDENTIAL	No
REPORT TITLE	Managing Performance Policy
REPORT NUMBER	CUS/24/021
DIRECTOR	Andy MacDonald
CHIEF OFFICER	Lindsay MacInnes (interim)
REPORT AUTHOR	Kirsten Foley
TERMS OF REFERENCE	2.5

1. PURPOSE OF REPORT

- 1.1 This report presents the updated Managing Performance Policy for approval.

2. RECOMMENDATIONS

That Committee:

- 2.1 approves the updated policy document;
- 2.2 Instructs the interim Chief Officer – People and Organisational Development to ensure that a full review is undertaken of the process and guidance in consultation with the Trade Unions and managers; and
- 2.3 Instructs the interim Chief Officer - People and Organisational Development to ensure that the Policy document and all supporting process and guidance documents are easily accessible to all staff and managers and that managers are supported in the fair and consistent application of the policy and process through appropriate training.

3. CURRENT SITUATION

- 3.1 The existing Managing Performance Policy and Procedure has been in place since 2010, with updates to guidance applied as and when required.
Note: this policy does not apply to teaching employees who are employed on SNCT terms and conditions of employment.
- 3.2 Feedback received from managers and trade unions on recent cases led to the decision to review the existing Policy and Procedure.
- 3.3 The policy elements of the existing document were separated out from the policy and guidance elements and captured in the new corporate policy template.

3.4 A review of the feedback received was undertaken and the following key areas for improvement were identified:

- The importance of early intervention and appropriate escalation routes
- A requirement to update template pro formas and ensure that these are capturing the most relevant information so that they can be used at all stages of the process thus avoiding duplication of work as the process progresses.
- The importance of consistent support being available to both employee and manager throughout the process.
- Ensuring that wellbeing support is promoted to all concerned with the process at all stages.
- Ensuring that reasonable timescales are adhered to, allowing time for the employee to demonstrate improvement but not drawing out the process unnecessarily,

3.5 The review of the feedback identified that the matters requiring to be addressed relate not to the Policy statement, but rather to the process and guidance, and work is underway with focus groups, including Trade Union colleagues, to update these documents. It is intended that this work will be completed by the end of February 2024.

3.6 The key elements of Managing Performance Policy have not changed, and remain as they have been previously, namely:

- Employees have a duty to perform their work to the required standards.
- The employer has a duty to ensure that the required standards are clearly understood and that the employee is supported and enabled to reach the standard required.
- Any performance related issues should be progressed at the lowest level, with the emphasis always initially being on supporting the employee.
- A range of different types of support should be made available to both employees and managers throughout the application of the policy and associated process.

3.7 The Policy elements have been captured in the revised corporate policy template and reviewed by the Risk Board.

3.8 The updated Policy document is now presented to Committee for approval.

3.9 Work is underway with managers and trade union representatives to ensure that the existing process and guidance documents are reviewed in line with the feedback received from both managers and trade unions.

4. FINANCIAL IMPLICATIONS

4.1 Under performance can lead to reduced service delivery and the possibility of incurring additional cost should work have to be redone.

4.2 Issues arising from poor performance could lead to legal challenge against the Council, potentially incurring costs.

5. LEGAL IMPLICATIONS

- 5.1 Performance issues can sometimes be due to issues arising from health or other wellbeing issues. The Council has a duty of care to employees under the Health and Safety at Work etc Act 1974 and the Equalities Act 2010. The existence of a policy framework under which under performance can be identified and support provided to the employee is a method of discharging this duty of care.
- 5.2 The Council is responsible for providing statutory services at the levels required by legislation. This policy framework provides a tool for supporting employees so that the Council can be confident that all statutory requirements are being met.
- 5.3 Performance issues may ultimately lead to a capability dismissal which is one of the potential fair reasons for dismissal.

6. ENVIRONMENTAL IMPLICATIONS

- 6.1 There are no environmental implications arising from this report.

7. RISK

Category	Risks	Primary Controls/Control Actions to achieve Target Risk Level	*Target Risk Level (L, M or H) *taking into account controls/control actions	*Does Target Risk Level Match Appetite Set?
Strategic Risk	No significant risks identified			N/A
Compliance	Risk of unfair dismissal claims arising from performance management process being applied.	The policy complies with the ACAS guidance on Performance Management, which offers a level of assurance should there be a legal challenge resulting from a performance management process.	L	Yes
Operational	Under performance can have a negative impact on service delivery.	This policy provides a route for employees to be supported to achieve the standards required.	L	Yes
Financial	Under performance can impact on service delivery thus incurring	A policy which identifies under performance at the earliest stage and puts in place support for the employee will minimise the risk of such costs.	L	Yes

	financial cost to the organisation.			
Reputational	Failure to support employees to improve and sustain their performance can have a negative reputational risk.	The existence of a supportive performance management policy will enhance the Council's reputation as an employer of choice.	L	Yes
Environment / Climate	No significant risks identified			N/A

8. OUTCOMES

<u>COUNCIL DELIVERY PLAN 2023-2024</u>	
	Impact of Report
<p>Aberdeen City Council Policy Statement</p> <p><u>Working in Partnership for Aberdeen</u></p>	<p>The provisions of the policy will assist Aberdeen City Council to ensure that all work in support of the Policy Statement is carried out to the highest possible standard.</p> <p>In addition, the policy supports the commitment to recognise that the Council depends upon its staff to deliver the services it provides and believe the Council must properly reward, train and support its staff.</p>
<p>Regional and City Strategies</p> <p>Workforce Plan</p>	<p>The Workforce Plan sets out the need for efficiency and flexibility in the workforce, and emphasises the need to develop internal capacity. This policy provides a mechanism for ensuring that employees are supported to work at the standard required.</p>

9. IMPACT ASSESSMENTS

Assessment	Outcome
Integrated Impact Assessment	Stage 1 assessment completed
Data Protection Impact Assessment	Not required

10. BACKGROUND PAPERS

10.1 [\[ARCHIVED CONTENT\] Performance management | Acas \(nationalarchives.gov.uk\)](#)

11. APPENDICES

11.1 Managing Performance Policy

12. REPORT AUTHOR CONTACT DETAILS

Name	Kirsten Foley
Title	Employee Relations and Wellbeing Manager
Email Address	Kfoley@aberdeencity.gov.uk

Managing Performance

Approved by XX Committee or Board on
20XX with an implementation date of 20XX



Document Control

Approval Date	
Implementation Date	
Policy Number	Request from Assurance Team
Policy Author/s and Owner	People and Organisational Development
Approval Authority	Staff Governance Committee
Scheduled Review	
Date and Changes: 1/12/23 – Previous policy document updated to reflect Corporate Template.	

Table of Contents

1	Why does the Council need this Policy?	Page 4
2	Application and Scope Statement	Page 4
3	Responsibilities	Page 4
4	Supporting Procedures and Documentation	Page 5
5	About this Policy	Page 5
6	Risk	Page 6
7	Environmental Considerations	Page 7
8	Policy Performance	Page 7
9	Design and Delivery	Page 7
10	Housekeeping and Maintenance	Page 8
11	Communication and Distribution	Page 8
12	Information Management	Page 8
13	Definitions and Understanding this Policy	Page 8

1. Why does the Council need this Policy?

- 1.1 Employees have a contractual duty to perform their duties to the standards required by their employer and to behave in a manner that is in line with the Guiding Principles of the organisation.
- 1.2 The employer also has a duty to provide appropriate support and training to enable the employee to carry out their duties to the standard required.
- 1.3 The Managing Performance policy and associated guidance provide a framework to ensure that employees who fall below these standards are managed through early intervention in a fair, supportive and consistent manner.
- 1.4 The policy and associated guidance ensure that the employee is informed of the concerns with their performance and provided with reasonable time and support to meet the required standards.
- 1.5 The employee will also be informed of the consequences of their failure to improve, which could ultimately be dismissal from the Council.

2. Application and Scope Statement

- 2.1 This policy applies to all employees of Aberdeen City Council, except teachers whose performance will be considered under the General Teaching Council Code of Practice on Teacher Competence and the associated Local Negotiating Committee for Teachers Agreement. [Code Of Practice On Teacher Competence](#)
- 2.2 The policy aligns with the Guiding Principles of Pride and Trust, which set out the expectation that employees take pride in the work they undertake, work to make things better, and take responsibility for their actions.
- 2.3 The policy is concerned with ensuring that all employees are enabled and supported to perform their duties to the highest standard.
- 2.4 The Council recognises its legal responsibilities under the Equality Act 2010

3. Responsibilities

- 3.1 Managers are responsible for ensuring that all employees know and understand the performance standards expected of them and are provided with the appropriate training and support to allow them to achieve these standards.
- 3.2 Each individual employee is responsible for ensuring that they are aware of the performance standards expected of them, and for engaging with any training and support put in place to enable them to achieve these standards.
- 3.3 People and Organisational Development are responsible for ensuring that this policy and its accompanying guidance are clearly communicated to all staff.

- 3.4 People and Organisational Development are responsible for ensuring that appropriate training and support is available to managers in respect of the application of this policy.

4. Supporting Procedures and Documentation

- 4.1 An accompanying procedure and guidance document has been put in place to support the application of and adherence to this policy and is available on People Anytime on the Council Intranet.

- 4.2 This policy also links to:

- The Council's Guiding Principles [Our Guiding Principles \(sharepoint.com\)](#)
- The Managing Discipline Policy [ACC Policy - Managing Discipline 2021 \(sharepoint.com\)](#) and accompanying guidance [Guidance - Managing Discipline Guidance 2021.pdf](#)
- The Employee Code of Conduct [Code of conduct | Search Results | Aberdeen City Council: People Anytime](#)
- Investigations Procedure
- Diversity and Equality Policy
- ICT Acceptable Use Policy

5. About this Policy

- 5.1 This policy is not creating any specific regulations or requirements other than what is stated under Core Principles below

Policy Core Principles

- 5.2 A supportive, informative and constructive approach to performance issues will be encouraged and applied by employees, managers and trades unions, with any concerns being raised informally in the first instance.
- 5.3 Early intervention is key to providing support to employees who are experiencing a lapse in their performance levels.
- 5.4 Managers should give employees every opportunity to identify any health, equalities or other issues that may be impacting on the employee's performance and provide appropriate support.
- 5.5 Managers will ensure that all employees know and understand the performance standards expected of them.
- 5.6 Reasonable efforts will be made to identify sustainable solutions to overcome individual performance difficulties. Whilst the Council will make all reasonable efforts to assist the employee, it cannot guarantee to maintain employment in cases where the employee is unable to sustain the performance standards required.

- 5.7 Every effort will be made to ensure that under performance is dealt with promptly and effectively, demonstrating clear outcomes at all stages.
- 5.8 Employees will be offered the opportunity to be accompanied by a trade union representative or work colleague of their choice at all stages of the procedure. The employee will not normally be permitted to be accompanied by a legal practitioner, partner, spouse or family member.

6. Risk

- **Compliance Risks** – This policy and supporting documentation will reduce the risk of non-compliance with delivery of statutory services by putting in place a process for supporting employees to deliver services to the standard required.
 - **Operational Risks** – The application of this policy will ensure that all services are delivered to the highest standard, and that employees are supported to meet the required standards of service delivery.
 - **Reputational Risks** - the policy reduces reputational risk to ACC by demonstrating our commitment to addressing issues of underperformance and to supporting our employees to meet the required standards.
 - There have been no unintended effects or consequences identified from the update of this policy.
- 6.1 The risks identified will be managed and mitigated through application of the policy across the Council. This will be undertaken by ensuring the policy and accompanying procedure are readily available to all and that support is provided from People and Organisational Development in the interpretation of the policy, where required.
- 6.2 Monitoring will be undertaken by the review of data relating to the application of the policy.

7. Environmental Implications

There are no environmental implications arising from this policy.

8. Policy Performance

- 8.1 The main factors determining the effectiveness of the policy are the usage of the policy by employees who identify that they are experiencing performance issues and seek support from the organization to overcome these, and the consistency in its application by managers. Whilst the majority of Council employees will not require to seek the support offered by the policy, it is important that the Council has in place a robust policy and accompanying procedure which is available for when the need arises.
- 8.2 The effectiveness of the policy will be measured through gathering data on the application of the policy and the staged support process. Feedback will be collected from users of the policy (employees and managers) and accompanying procedure.

- 8.3 The Employee Relations and Wellbeing Manager will report to Staff Governance Committee data relating to the application and effectiveness of the policy as part of the regular reports on case work. In all such reports confidentiality will be strictly maintained.

9. Design and Delivery

- 9.1 The policy links to the 'Workforce Design' principle of the Target Operating Model (TOM) in that it is concerned with organisational culture. The Council aims to apply high standards of performance. Having a Managing Performance policy and accompanying procedure in place where employees and workers are supported to perform to the standards required will contribute to a positive culture in the organisation. It also accords with the Council's Guiding Principles, particularly in relation to the commitment to valuing and supporting staff, and taking pride in our performance.

10. Housekeeping and Maintenance

- 10.1 The Policy updates the existing Managing Performance policy and will be reviewed biennially with any necessary updates made to it and the accompanying procedural document.

11. Communication and Distribution

- 11.1 This policy and accompanying procedure will be shared directly with the Extended Corporate Management Team to enable their communication and distribution in accordance with responsibilities set out in section 3.
- 11.2 The policy and accompanying procedure and guidance note will be available to view on the organisation's shared areas on the intranet.

12. Information Management

- 12.1 Information generated by the application of this policy and accompanying procedure will be managed in accordance with the Council's Corporate Information Policy and Supporting Procedures.

13. Definitions and Understanding this Policy

- 13.1 Under performance is defined as work performance which does not meet the standards set out in the Job Profile.