



# Performance Capability Policy

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## **1. Introduction**

RBK is committed to improving and maintaining employee performance through a learning-centred approach. This policy sets out the steps to be used where any employee displays poor performance due to lack of capability to carry out the duties of their role.

We believe our staff are at the heart of this organisation to deliver the objectives of the [Corporate Plan](#) and to make Kingston better together by living our shared [STAR Values and Behaviours](#).

Where problems with employee performance arise managers will work with employees to tackle issues fairly and quickly and take all reasonable steps to encourage, assist and enable an employee to improve their performance. Whilst the Council will support staff who are underperforming, it is the employee's personal responsibility to take whatever action is necessary, including seeking guidance, to improve their standard of performance. In applying this policy a joint problem-solving approach should be adopted by all parties.

## **2. Purpose**

The purpose of this policy is to:

- Help and encourage underperforming employees to achieve and maintain satisfactory standards of job performance
- Provide appropriate support and guidance to ensure that underperforming staff have the appropriate skills, knowledge, competence, behaviours and aptitude to undertake their role effectively
- Have a transparent framework for dealing with cases of poor performance in a fair and supportive way that includes the termination of employment in cases where the employee has failed to effect and maintain an acceptable standard of work performance.

If poor performance is caused by ill health or misconduct the issue will be dealt with under the relevant policy; [Disciplinary](#) or [Managing Health and Attendance](#).

HR should always be consulted at the final stage of the process, which is stage 3. They will also be able to provide advice at the earlier stages if required.

## **3. Scope**

This policy applies to all RBK employees except those on their probationary period.

## **4. Definitions**

**Capability** refers to an employee's skills, aptitude, ability and knowledge in relation to the job that they are employed to do. Lack of capability will normally lead to unsatisfactory performance and it is therefore important to ensure that any capability issue is identified and rectified quickly.

**Capability** is different from misconduct, in that it refers to situations where an employee is genuinely trying to perform to the required standard but is incapable of doing so. It is not a

deliberate failure to perform, poor attitude, or failure to meet standards as a result of carelessness, negligence or idleness; these matters are matters of misconduct.

**SMART Objectives** – are set for an employee as part of their improvement plan. They should be Specific, Measurable, Achievable, Realistic, Time Specific.

## **5. Responsibilities**

### **Employees**

- Raise any concerns or queries about performing their role including their need for support, training or equipment, with their line manager as soon as possible
- Raise any development needs with the line manager
- Cooperate fully with all support measures offered eg mentoring, training, development, working with colleagues
- Maintain confidentiality throughout the process

### **Managers**

- Raise performance problems with the employee as soon as they become apparent
- Be fair and equitable in their dealings with staff.
- Conduct a fair and objective process by seeking an agreed resolution.
- Maintain confidentiality throughout the process
- Keep accurate records of the process

### **HR**

- Provide advice on the implementation of this policy
- Work collaboratively with managers and staff representatives to resolve issue
- Attend and support stage 3 formal meetings

### **Unions**

- Provide support and advice to their members on the implementation of this policy
- Work in partnership with managers and HR to explore resolution to concerns

## **6. Managing Poor Performance**

### **6.1 Managing performance during routine management meetings**

Performance issues should initially be raised during normal day to day management discussions and any shortcomings brought to the attention of the employee without delay. These discussions should be two way, enabling the line manager to outline the concerns regarding performance and allowing the employee the opportunity to respond. During these discussions, it will be important to explore all possible reasons for the poor performance

There are a number of factors that may influence performance, examples include:

- Lack of clarity of job purpose, and/or understanding of objectives and processes
- Insufficient or ineffective training/development or lack of support

- Poor equipment, or systems/procedures/processes
- Excessively high workload
- Poor/ineffective communication
- Difficult working relationships (including bullying or harassment)
- Ill health
- Disability
- Personal problems including substance misuse

Identifying the issues surrounding the performance concern will enable a programme of support to be considered, along with the setting of clear performance objectives and a timescale for review. The date of the next review will depend on the nature of the duties undertaken, job profile and the time it will realistically take to measure any change. However, the manager should review as soon as possible and in any case not more than 4 weeks after setting objectives. It is good practice to keep in regular contact with the employee during a review period so that any arising issues can be resolved.

It may be useful, at this stage, to use a performance improvement plan (PIP), see below and Appendix 4. This can be helpful in setting appropriate targets for the employee to achieve and agreeing review periods. It is also an effective way of ensuring that accurate records of progress are kept.

If the cause of the poor performance is related to a health condition the manager should discuss with the employee what reasonable adjustments are required. It may be helpful to consider obtaining advice from occupational health, or the employee's doctor regarding this. If the employee is considered to have a disability there is a duty, under the Equalities Act for reasonable adjustments to be considered.

It is important to ensure that the employee understands where performance is falling below the required standard and the improvement that is required. If the employee is not able to show improvement despite these steps the line manager should use the steps in this policy summarised and explained below.

## **7. Performance Capability Procedure**

### **7.1 Outline of the Stages of the Performance Capability Policy**

Table 1 outlines the three stages of this policy

<p><b>STAGE 1: Informal</b></p> <p>See sections 9.0 for details</p>	<p><b>To review the informal performance review process, listen to the employee's explanations and reinforce standards</b></p> <p>An informal stage 1 meeting will be appropriate when the line manager feels that the employee has been given encouragement and opportunity to improve, but has still not met the performance standards.</p> <p>At the meeting, the manager must state the standards required and how the employee is considered to be falling short of it. The employee will be given the opportunity to give their own account of the matter and express their view of how improvements can best be achieved. The review should not normally be less than 4 weeks and no more than 8 weeks after the introduction of the revised plan.</p> <p>The manager will confirm the outcome in writing to the employee including the introduction of a PIP, if not already in use, any agreed actions by the employee and manager and the date of a review meeting.</p> <p>At the end of the review period, the line manager should arrange to meet the employee to discuss the current situation. The purpose of this meeting is to decide whether it is necessary to progress to Stage 2 of the procedure, or whether a further review period would be appropriate in the circumstances.</p>
<p><b>STAGE 2: Informal</b></p> <p>See section 10.0 below for details</p>	<p><b>To review the PIP, and agree the next steps.</b></p> <p>An informal stage 2 capability meeting will be held if the employee has not been able to adequately meet the agreed standards when the position is considered at the review meeting.</p> <p>The stage 2 meeting will review the PIP process and further explain the importance of the need to meet the standards agreed. In discussion with the employee, support measures may be agreed, the PIP will be updated and a further review date will be set. The review should not normally be less than 4 weeks and no more than 8 weeks after the introduction of the revised plan.</p> <p>The manager should inform the employee that if their performance continues to be of concern and objectives are not met a Stage 3 meeting will be held which could potentially lead to their dismissal on the grounds of incapability. If their performance has improved a further period of review would be appropriate.</p>

	<p><b>Serious Cases</b> In exceptional cases where the actual or potential consequences of the employee's actions/inactions are very serious and the implementation of a programme of professional support or training would be inappropriate, the immediate implementation of stage 3 of this procedure may be appropriate.</p> <p>Where it is considered that the poor performance is having a critical effect on services the period given for improvement will be a minimum of 4 weeks. Failure to achieve satisfactory improvement after this period can lead to immediate implementation of stage 3 of this procedure.</p>
<p><b>STAGE 3: Formal</b></p> <p>See section 11.0 below for details</p>	<p><b>A meeting should be held if the outcome of the stage 2 review is that objectives have not been satisfactorily achieved.</b></p> <p>A stage 3 meeting is formal, the employee is entitled to representation at the meeting. One possible outcome of a stage 3 meeting are, further review or dismissal on the grounds of incapability.</p>

## 8. Performance Capability Meetings

The following applies to meetings at all stages of the Performance Capability Procedure:

### 8.1 Use of Virtual Meetings

In some circumstances, it may be beneficial to consider holding meetings virtually using video software, rather than meeting face to face. It is permissible to hold such meetings under this policy provided that adequate preparation has taken place. The manager must be sure that:

- All relevant meeting attendees have access to the necessary hardware and software
- All are able to find a quiet and confidential space to hold the meeting
- It is possible for the employee to be accompanied by Trade Union representative or work colleague, at a stage 3 meeting
- All relevant papers have been shared with all attendees prior to the meeting
- It is advisable to test connections 5-10 minutes prior to the meeting start
- Space and time must be allowed for the employee to consult with a representative and for a manager to consult with an advisor.

All virtual meetings will be carried out in the same manner as face to face meetings, including all letters of invitation, meeting agendas, note takers and other required information.

## **8.2 Written notification**

The employee should be advised in writing, by the line manager, that they are required to attend a meeting under the Performance Capability Procedure. In the case of an employee with a disability, it may be necessary to make appropriate reasonable adjustments. Letters should be sent at least 5 working days in advance of the meeting.

## **8.3 Meeting Organisers**

### **Line managers**

- are responsible for arranging, chairing and follow up of the informal stage 1 and 2 meetings
- are responsible for producing and presenting a summary report at the formal stage 3 meeting

### **A Senior Manager, with no prior involvement in the case:**

- is responsible for arranging, chairing and follow up of the formal stage 3 meetings

### **Human Resources:**

- Will advise line managers on holding stage 1 and 2 meetings and producing the report for the stage 3 meeting
- Will advise the line manager of the production and presentation of the summary report for the stage 3 meeting
- Will attend the stage 3 meetings to advise the senior manager on chairing and follow up of the meeting
- Will attend any appeal meetings to advise the senior manager on chairing and follow up of the meeting

### **Another Senior Manager, with no prior involvement in the case:**

- is responsible for organising, chairing and follow up of an appeal meeting

## **8.4 Representation**

The employee may have a companion or representative with them at informal meetings under the Performance Capability Procedure and is entitled to representation in stage 3. The companion may be a work colleague or trade union representative. In exceptional cases, an employee's disability may require the attendance of a support worker or relative to assist during such meetings. An employee's request to have an additional support worker present must be made to the line manager, in advance of the meeting, in all cases.



## **8.5 Meeting record**

A record of all meetings must be kept. A template form is available below under [Appendix 3](#). It is crucial that these records are kept confidentially and within the requirements of the Data Protection Act 2018.

## **8.6 Access Issues**

The manager organising the meeting should ensure that access issues have been considered and that reasonable adjustments have been made for all parties.

## **8.7 Non-attendance**

Should the employee fail to attend the meeting, without advising the meeting organiser or sending a representative or providing written representation, the line manager or meeting Chair is entitled to reach conclusions on the basis of the information and evidence available at the time.

## **8.8 Review periods**

Reviews should not normally be less than 4 weeks or more than 8 weeks after the introduction of the objectives. When setting review periods, account should be taken of any reasonable adjustments agreed for employees with a disability.

**NB: The Following points apply at all stages of the procedure:**

**Note:** If it is likely that action may be taken against a trade union representative, the Department contemplating the action must inform HR and the full-time officer of the trade union concerned prior to any meeting under this policy.

**Serious Cases:** In exceptional cases where the actual or potential consequences of the employee's actions/inactions are very serious and the implementation of a programme of professional support or training would be inappropriate, the immediate implementation of stage 3 of this procedure may be appropriate.

Where it is considered that the poor performance is having a critical effect on services the period given for improvement will be a minimum of 4 weeks. Failure to achieve satisfactory improvement after this period can lead to immediate implementation of stage 3 of this procedure.

## **9. Stage 1 Performance Capability Meeting**

If an employee's performance continues to be a problem following the usual managerial support, this procedure should be followed by holding a stage 1 meeting:

- The line manager should arrange to meet with the employee to review performance and explain that their performance is not satisfactory.
- Ensure that they understand you are now following the informal stages of this procedure and provide a copy for them. This should be a two-way conversation.

During the informal meeting the manager should have a broad discussion with the employee, explaining the concerns regarding performance. The manager should have a copy of the current job description, any performance management/appraisal records and examples of where the employee's performance is giving cause for concern and failing to meet the required standards. The employee must be given the opportunity to express their own position. The line manager should listen carefully in order to achieve understanding of the employee's position. Notes should be taken to enable matters to be reviewed at subsequent meetings.

### **9.1 Performance Improvement Plan**

A PIP (see [Appendix 4](#)) **must** be implemented at this point, if it has not already been used.

A Performance Improvement Plan (PIP) (See Appendix 4) sets out:-

- Area requiring improvement
- Objectives (SMART - Specific, Measurable, Achievable, Realistic and Timed).
- Measures
- How will the objectives be met?
- Evidence gathering for assessment
- Timescale
- Training, Development and other appropriate support

Regular review meetings should take place and the first review should not normally be less than 4 weeks and no more than 8 weeks after the introduction of the plan. The timing of when a review meeting should take place will realistically depend on the time it will take for a change in performance to be measured.

During the informal process there is no requirement for the employee to be represented, however, if the employee requests to have a colleague or union representative with them, you should discuss this option with them. Be mindful that staff with disabilities may benefit from having a representative with them.

### **9.2 Aims of the meeting**

At the Stage 1 meeting, the informal PIP process will be discussed in a supportive and transparent way, including the following:

- The details of the performance concern(s).
- The objectives set and how improvement has been measured
- The employee's performance in relation to the objectives
- The support, training and development offered to the employee to help them meet the objectives
- The level of concern over the employee's performance and the impact this is having on the service.
- The timescale for achieving sustained performance improvement.
- The employee should have the opportunity to respond.

### **9.3 Outcomes of the Meeting**

At the end of the meeting the line manager will set:-

- a date for a review meeting
- the objectives which will need to have been met by this time. This will be confirmed in writing, including an updated PIP.

### **9.4 Review Meeting**

During the process of the PIP agreed above it is good practice to hold regular informal meetings to monitor progress against objectives. At the end of the review period the line manager should arrange to meet the employee to discuss the current situation (this is the review meeting set at the stage 1 meeting). The purpose of this meeting is to decide whether it is necessary to progress to Stage 2 of the procedure, or whether a further review period would be appropriate in the circumstances. In cases where all the objectives of the PIP have been met successfully, a further review period of at least 4 weeks should be given to ensure the improvement is sustained.

## **10. Stage 2 Performance Capability Meeting**

### **10.1 Aims of the Meeting**

At the Stage 2 meeting, the informal PIP process will be discussed, including the following:

- The details of the performance concern(s).
- The objectives set and how improvement has been measured
- The employee's performance in relation to the objectives
- The support and training offered to the employee to help them meet the objectives
- The level of concern over the employee's performance and the impact this is having on the service.
- The timescale for achieving sustained performance improvement.
- The employee should have the opportunity to respond.

## **10.2 Outcome of the meeting**

At the end of the meeting the line manager will set:-

- a date for a review meeting
- the objectives which will need to have been met by this time.

This will be confirmed in writing, including an updated PIP.

The manager should inform the employee that if their performance continues to be of concern and objectives are not met a Stage 3 meeting will be held which could, potentially, lead to their dismissal on the grounds of incapability.

## **10.3 Review Meeting**

During the process of the PIP agreed above it is good practice to hold regular informal meetings to monitor progress against objectives. At the end of the review period the line manager should arrange to meet the employee to discuss the current situation. The purpose of this meeting is to decide whether it is necessary to progress to Stage 3 of the procedure, or whether a further review period would be appropriate in the circumstances. In cases where all the objectives of the PIP have been met successfully, a further review period of at least 4 weeks should be given to ensure the improvement is sustained.

## **11. Stage 3 Formal Performance Capability Meeting**

**NB During this stage 3 formal meeting and any appeal, the employee has the right of representation by a colleague or a Union representative.**

### **11.1 Before the Meeting**

The line manager is required to produce a report for the meeting. This should include up-to-date evidence of the employee's performance against objectives and the impact this is having on the service, along with details of the support/training etc that the employee has received. The employee must receive a copy of the report 7 working days in advance of the meeting and may submit written information to the meeting a minimum of 3 working days in advance.

A stage 3 meeting will be chaired by a senior manager. This manager will decide on the outcome of the stage 3 meeting. At this meeting a representative of HR will be present to provide advice to the Chair of the meeting.

## **11.2 Aims of the meeting**

The meeting will consider the report and any evidence submitted by the employee. Any decision regarding termination of employment will take into account the following factors:

- The overall performance record.
- The support/training that has been offered to the employee
- The likelihood of a sustained improved performance record being achieved by the employee in the future.
- The needs of the service and the effect of the employee's performance on the service, taking account of operational and financial impact on the service and effects on colleagues and work flow.
- Consideration of redeployment within the Authority if available and suitable.
- Appointment to a lower graded role if one is available

**The outcomes available to the meeting Chair, when deciding on action to be taken at this stage, are as follows:**

- To keep the matter under review for a further period, at the end of which a further stage 3 meeting will take place, if appropriate. \*
- Consideration for the employee to be redeployed to a suitable alternative role, or appointed to a lower graded role (if either are available within the Council).
- To terminate the employment contract on the grounds of incapability. This will be in cases where the overall impact of the performance concerns on the service cannot be tolerated and there has been no sustained improvement, in line with the PIP, by the individual.

The agenda to be used for this meeting is at Appendix 1

\* A further review will only be appropriate where the manager believes that this further review period (4 - 8 weeks) could lead to the required improvement in performance.

## **11.3 Outcome of the Meeting**

Wherever possible the employee will be told of the Panel's decision at the end of the meeting. If this is not possible, the Chair of the meeting must write to the employee *within 5 working days of the meeting* to inform them of their decision.

If the decision is to have a further review period, this must be included in the outcome letter including the timing of the review period and the standards of performance which the employee is required to achieve during this period.

## **12. Redeployment**

Redeployment should be explored at any point of the capability management procedure. RBK supports redeployment following a mutual agreement between an employee and a manager in cases where it is clear that the employee's skill set is not suitable for the job they are currently in.

Redeployment can be considered during the notice period if the outcome of the stage 3 meeting is termination of employment.

If the decision is to redeploy/appoint the employee to an alternative position within the Council this decision will be confirmed in the outcome letter. However, a further letter will be sent to the employee confirming the variation of employment from the original post, to the new position. This letter will be sent by the Chair of the stage 3 meeting. A redeployment to a new post within the Council will be subject to a 4 week trial period. The point of the trial period is for both sides to see if the new post is something that is going to work out in the long run.

If a decision to dismiss on the grounds of incapability is made, written notice of termination shall be given in accordance with statutory provisions and with the individual's contract of employment. The employee will have the right of appeal.

## **13. Appeal Rights**

The employee has a right of appeal against formal action taken at stage 3 of this procedure. The decision of the Appeal Panel is final.

Written notification of the employee's reasons for appeal must be received no later than 5 working days after the date of the outcome letter. The grounds for an employee's appeal must be detailed into the categories of a procedural flaw (not following the policy) and/or severity of sanction.

If the employee does give notice of intention to exercise their right of appeal, the matter will be referred to a senior manager who has had no previous involvement in the case and will be heard and chaired by an elected member.

The appeal meeting should be held as soon as possible after notice of appeal is given by the employee concerned. The employee should be given at least 5 working days' notice in writing of the date of the meeting.

The employee has the right to be accompanied at the appeal meeting by a work colleague or trade union representative.

A representative of HR will be present to provide advice to the appeal Chair.

The agenda for the meeting is at Appendix 2

### **13.1 Outcomes of the appeal meeting**

- The appeal is upheld (*the employee is reinstated back to work with immediate effect and also with any appropriate continuation of the PIP and review meetings*).
- The appeal is dismissed and the decision of the stage 3 panel remains.

The Appeal decision shall be communicated in writing to the employee by the Chair of the meeting no later than 5 working days after the decision is made.

There is no further right of appeal.

## **Appendices**

### **14. Appendix 1 - Agenda for Formal Stage 3 Meeting**

- The Chair of the meeting will introduce all present and confirm the purpose of the meeting.
- Management will present the case detailing the employee's performance concerns
- Management may call witnesses to support their case.
- All parties may question any witnesses.
- There will be an opportunity for questions to be asked of management by the employee and their representative and the chair.
- The employee and/or representative will present his/her case.
- The employee may call witnesses to support his/her case.
- All parties may question any witnesses.
- There will be an opportunity for questions to be asked of the employee by management and the chair.
- Closing statements will be made by management and the employee/representative.
- All present, other than the chair and adviser, shall withdraw. The Chair shall then reach a decision and complete the rationale sheet.
- The chair shall then advise the employee of the decision reached.
- Formal notes of the meeting will be taken.

The chair will have the following range of options available to them:-

- To keep the matter under review for a further period, at the end of which a further stage 3 meeting will take place, if appropriate. \*
- Consideration for the employee to be redeployed to a suitable alternative role, or appointed to a lower graded role (if either are available within the Council).
- To terminate the employment contract on the grounds of incapability. This will be in cases where the overall impact of the performance concerns on the service cannot be tolerated and there has been no sustained improvement, in line with the PIP, by the individual.

\* A further review will only be appropriate where the manager believes that this further review period (4 - 8 weeks) could lead to the required improvement in performance.

The chair's decision shall be communicated in writing to the employee (by the Chair of the meeting) no later than 5 working days after the decision is made. If dismissal is the outcome the employee has the right of appeal.



## **15. Appendix 2- Agenda for the Appeal Meeting**

- The Chair of the meeting will introduce all present and confirm the purpose of the meeting
- The employee and/or representative will present the grounds of appeal.
- There will be an opportunity for questions to be asked of the employee by the Appeal Chair.
- There will be an opportunity for questions to be asked of the employee by the Stage 3 meeting Chair.
- The Chair of the stage 3 meeting will respond to the employees ground of appeal
- There will be an opportunity for questions to be asked by the employee of the Chair of the stage 3 meeting.
- There will be an opportunity for questions to be asked of the stage 3 meeting chair by the chair of the appeal
- Closing statements will be made by the employee/representative and the Stage 3 Chair
- All present, other than the Appeal Chair shall withdraw. The Appeal Chair shall then consider all the information and record their rationale as to their decision on the outcome.
- The Appeal chair shall then advise the employee of the decision reached.
- Formal notes of the meeting will be taken.

The Appeal chair will have the following range of options available to them:-

- The appeal is upheld (*the employee is reinstated back to work with immediate effect and also with any appropriate continuation of the PIP and review meetings*).
- The appeal is dismissed and the decision of the stage 3 meeting remains.

The Appeal chair decision shall be communicated in writing to the employee (by the Chair of the meeting) no later than 5 working days after the decision is made.

There is no further right of appeal.

## **16. Appendix 3 - Meeting Record**

For a copy of the Meeting Record document, please click [here](#).

## **17. Appendix 4 - Performance Improvement Plan (PIP)**

For a copy of the Performance Improvement Plan (PIP), please click [here](#).

## **18. TEMPLATE LETTERS**

### **18.1 Invite to Attend a Stage 1 Meeting**

#### **STRICTLY CONFIDENTIAL**

Dear xxxx

#### **PERFORMANCE CAPABILITY PROCEDURE STAGE 1 MEETING**

Following our recent discussions about your performance capability and assessment of your performance [*using the Performance Improvement Plan (PIP) if applicable*] I am writing to confirm that you are required to attend a meeting under stage 1 of the Performance Capability Procedure.

The meeting will take place at (*time*) on (*date*) in (*place*). You may bring a work colleague or trade union representative to the meeting. Should you or your representative have a disability and require any reasonable adjustments for the meeting, please advise me as soon as possible, so that I can make arrangements accordingly.

I will conduct the meeting and have asked (*insert name*) to attend as a note taker. I will consider your performance in relation to the objectives set and the effect that this is having on the service.

The purpose of the meeting is to agree;

- A date for a review meeting and
- Renew the objectives which will need to have been met by the review date. This will include the use of a PIP/an updated PIP.

If you are unable to attend, and do not make contact with me to explain why and request an alternative date, the meeting may proceed in your absence. In such circumstances your case will be considered and conclusions may be reached on the information available.

Should you feel the need for additional support, may I remind you that the Council has a Wellbeing service who can be contacted on (*please insert details of contact*).

Please contact me directly should you have any queries in relation to the above.

Yours sincerely,

*Line Manager*

Copy to: HR

## **18.2 Stage 1 Meeting Outcome**

### **STRICTLY CONFIDENTIAL**

Dear x

### **PERFORMANCE CAPABILITY PROCEDURE OUTCOME OF STAGE 1 MEETING**

Thank you for attending the Stage 1 meeting under the Performance Capability Procedure, I am writing to confirm the outcome of this meeting.

At the meeting I considered your progress in respect of the objectives identified on your Performance Improvement Plan (PIP), *(include a summary of the relevant information including training and support offered, review meetings, acknowledge any progress attained)*. I explained the impact your performance is having on your colleagues and on the service.

You explained *(include a summary of the points made by the employee)*.

We agreed an updated PIP with renewed objectives and that a review meeting would be held on *(date)*.

During the period prior to this meeting I will continue to review your PIP and will arrange to meet you informally to discuss your progress.

Please note that if *there is no improvement in your performance at the end of the review period* a Stage 2 meeting will be held, in accordance with the Performance Capability Procedure.

Should you feel the need for additional support, may I remind you that the Council has a Wellbeing service who can be contacted on *(please insert details of contact)*.

Yours sincerely

Line manager

Copy: HR; Trade Union/ other Representative

### **18.3 Invite to Attend Stage 2 Meeting**

#### **STRICTLY CONFIDENTIAL**

Dear x

#### **PERFORMANCE CAPABILITY INVITE TO STAGE 2 MEETING**

Following our recent discussions about your performance capability and assessment of your performance using the Performance Improvement Plan (PIP) I am writing to confirm that you are required to attend a meeting under stage 2 of the Performance Capability Procedure (attached).

The meeting will take place at *(time)* on *(date)* in *(place)*. You may bring a work colleague or trade union representative to the meeting. Should you or your representative have a disability and require any reasonable adjustments for the meeting, please advise me as soon as possible, so that I can make arrangements accordingly.

I will conduct the meeting and have asked *(insert name)* to attend as a note taker. I will consider the informal PIP process.

The purpose of the meeting is to agree

- a date for a review meeting and
- renew the objectives which will need to have been met by the review date. This will include an updated PIP.

If you are unable to attend, and do not make contact with me to explain why and request an alternative date, the meeting may proceed in your absence. In such circumstances your case will be considered and conclusions may be reached on the information available.

Should you feel the need for additional support, may I remind you that the Council has a Wellbeing service who can be contacted on *(please insert details of contact)*.

Please contact me directly should you have any queries in relation to the above.

Yours sincerely,

*Line Manager*

Copy to: HR and TU/other representative if relevant

## **18.4 Stage 2 Meeting Outcome**

### **STRICTLY CONFIDENTIAL**

Dear x

#### **PERFORMANCE CAPABILITY PROCEDURE OUTCOME OF STAGE 2 MEETING**

Thank you for attending the Stage 2 meeting under the Performance Capability Procedure, I am writing to confirm the outcome of this meeting.

At the meeting I considered your progress in respect of the objectives identified on your Performance Improvement Plan (PIP), *(include a summary of the relevant information including training and support offered, review meetings, acknowledge any progress attained)*. I explained the impact your performance is having on your colleagues, and on the service.

You explained *(include a summary of the points made by the employee)*.

We agreed an updated PIP with renewed objectives and that a review meeting would be held on *(date)*.

During the period prior to this meeting I will continue to review your PIP and will arrange to meet you informally to discuss your progress.

Please note that if *there is no improvement in your performance within the review period* a Stage 3 meeting will be held, in accordance with the Performance Capability Procedure *(attached)*.

The stage 3 meeting will determine the likelihood of your sustained improvement in performance and your capability to meet the requirements of your job. I must inform you that this could, potentially, lead to your dismissal on the grounds of incapability.

Should you feel the need for additional support, may I remind you that the Council has a Wellbeing service who can be contacted on *(please insert details of contact)*.

Please contact me directly should you have any queries in relation to the above.

Yours sincerely,

A Senior Manager

Copy: HR Consultant Trade Union/other Representative Line Manager

## **18.5 Invite to Attend Stage 3 Meeting**

### **STRICTLY CONFIDENTIAL**

Dear x

#### **PERFORMANCE CAPABILITY; INVITE TO STAGE 3 MEETING**

Following your recent discussions, with *(line manager)*, about your performance capability and assessment of your performance using the Performance Improvement Plan (PIP) I am writing to confirm that you are required to attend a formal meeting under stage 3 of the Performance Capability Procedure (attached). A copy of the procedure for the meeting is attached.

The meeting will take place at *(time)* on *(date)* in *(place)*. If you require any reasonable adjustments to enable you to attend the meeting, please let me know and I will make the necessary arrangements.

A Senior Manager *(use names and title)* will conduct the meeting and will be supported by ..... from Human Resources. In addition XXX will attend as a note taker. *(Insert name of line manager)* will present a summary of the PIP process to date and you will have the opportunity to respond. The chair of the meeting will give formal consideration to the process and outcome of the PIP. The options open at the conclusion of the meeting are:

- To keep the matter under review for a further period, at the end of which a further stage 3 meeting will take place if there is no improvement.
- Consideration for the employee to be redeployed to a suitable alternative role (if available within the Authority).
- To terminate the employment contract on the grounds of incapability. This will be in cases where the overall impact of the performance concerns on the service cannot be sustained and there has been insufficient improvement in line with the PIP.

You have the right to bring a work colleague or trade union representative to the meeting. Should you or your representative have a disability and require any reasonable adjustments for the meeting, please advise me as soon as possible, so that I can make arrangements accordingly.

I am enclosing a report on the PIP review process which xxx (*line manager*) has produced and which will be presented at the meeting.

If you are unable to attend, and do not make contact with me to explain why and request an alternative date or send a representative to act on your behalf or send a written statement, the meeting may proceed in your absence. In such circumstances, your case will be considered and conclusions may be reached on the information available

Should you feel the need for additional support, may I remind you that the Council has a Wellbeing and Counselling service who can be contacted (*please insert details of contact*).

Please contact me directly should you have any queries in relation to the above.

Yours sincerely,

*A Senior Manager*

Copy to: Line Manager, HR Consultant and TU representative if relevant

## **18.6 Stage 3 Meeting Outcome (Dismissal/Redeployment)**

### **STRICTLY CONFIDENTIAL**

Dear x

### **PERFORMANCE CAPABILITY PROCEDURE OUTCOME OF STAGE 3 FORMAL MEETING**

I am writing to confirm the outcome of the stage 3 meeting, under the Performance Capability procedure that you attended on (insert date).

The chair of the meeting (*insert name*) considered your performance progress in relation to the PIP as presented by (*insert name of line manager*). In particular s/he noted (*summarise the important outcomes of the PIP progress, both positive and negative*). They also noted the support and training that has been provided for you (*summarise the steps taken*).

You explained (*include a summary of the points made by the employee*).

They concluded that your performance (*include details,*) continues to be of concern and to have a negative impact on the service and that you can no longer remain employed in your position of (*name of position*)

The chair considered the possibility of redeploying you to an alternative position within the Authority.

#### *Either A or B*

A. They concluded that you could be offered the opportunity to be redeployed to the position of (*Job Title, include details of the position, hours, and salary*). You have 10 working days to consider this option. If you choose to take up the offer you will have a trial period of 4 weeks in the role during which time you and the service can consider if this job is suitable for you and the service. If you undertake the trial and it is successful your contract will be varied to confirm your permanent appointment to the new position. If you choose not to undertake the trial, or if the trial is not successful, you will be dismissed from your position of (*name of current position*)

#### **OR**

B. They concluded that there were no suitable redeployment opportunities available within the service/Authority and that they had no option but to dismiss you from your position of (*current job title*) with the Royal Borough of Kingston upon Thames (RBK).

You have the right to appeal against a dismissal decision. If you choose to do so please write to me, stating your grounds for appeal, within 10 days of the date of this letter. The grounds for appeal must be detailed under:-

- abuse of the process, i.e. failure to follow set procedure and policy;
- and /or severity of sanction (the penalty of dismissal was too harsh).



You are entitled to xx months/weeks' notice from the date of this letter. Therefore your employment with RBK will terminate on (*insert date*). You will not be required to work during your notice period.

Yours sincerely

Chair of the stage 3 meeting

Copy: HR; Trade Union/other Representative Line Manager

### **18.7 Stage 3 Meeting Outcome (NO dismissal/ redeployment)**

#### **STRICTLY CONFIDENTIAL**

Dear x

#### **PERFORMANCE CAPABILITY PROCEDURE OUTCOME OF STAGE 3 FORMAL MEETING**

I am writing to confirm the outcome of the Stage 3 meeting under the Performance Capability Procedure that you attended on *(insert date)*.

The meeting was chaired by *(name and position)* who considered your performance progress in relation to the PIP as presented by *(line manager)*. In particular ~~they~~ s/he noted *(summarise the important outcomes of the PIP progress, both positive and negative)*. S/he also noted the support and training that has been provided for you *(summarise the steps taken)*.

You explained *(include a summary of the points made by the employee)*.

The chair concluded that your performance *(include details)* has improved and that it is not necessary to consider your dismissal from your position of xxxx.

However, *(line manager)* will continue to review your PIP and will arrange to meet you to discuss your objectives and identify any new ones which are relevant, agree any support or training that may be needed and arrange a review date.

Please note that if *your improved performance is not maintained and/or further targets not met within the review period* a further Stage 3 meeting will be held, in accordance with the Performance Capability Procedure.

Yours sincerely

Senior Manager

Copy: HR TU/other representative, line manager

## **18.8 Invite to Appeal Meeting**

### **STRICTLY CONFIDENTIAL**

Dear x

#### **INVITE TO APPEAL MEETING**

Further to your request to appeal against the outcome of your recent stage 3 meeting under the above procedure, I am writing to inform you that your appeal will be heard on *(insert date, which should give 5 working days' notice)* at *(insert time)* in *(insert venue)*. This meeting will be conducted by *(insert name of Appeal chair)* a representative from Human Resources will be present as an adviser and *(insert name)* will attend as note taker. The procedure for this meeting is attached.

You have a right to be accompanied to the meeting by one person who may be a work colleague or a trade union official. Should you or your representative have a disability and require any reasonable adjustments for the meeting/hearing, please advise me as soon as possible, so that I can make arrangements accordingly.

Should you fail:

- to attend the meeting or contact me in relation to arrangements for the meeting,
- to send a representative to act on your behalf or,
- to send a written statement

The Appeal Panel may conclude that you have decided not to proceed with your appeal.

I enclose a copy of all the documents that will be considered at the meeting. Should you wish to submit written information to the meeting please send this to me no later than 5 working days in advance.

The decision of this appeal meeting will be final and there will be no further right of review. You will be notified of the outcome of the appeal meeting in writing no later than 5 working days after the decision has been made.

Should you have any queries in relation to the above, please contact me on the above telephone number.

Yours sincerely,  
Chair of the meeting,

Copy: HR Consultant; Manager/TU/other representative, line manager

## **18.9 Outcome of Appeal Meeting**

### **STRICTLY CONFIDENTIAL**

Dear x,

### **PERFORMANCE CAPABILITY PROCEDURE**

#### **OUTCOME OF APPEAL MEETING**

I am writing to confirm the outcome of the appeal meeting held on *(insert date)*. At the meeting you appealed against the decision of the *Stage 3 Performance Capability* meeting to *(outcome of meeting)*. You were represented at the meeting by (name) from (provide details).

You presented your grounds of appeal *(insert summary)*

Having listened to your representation I adjourned to consider all the information presented.

#### **INSERT one of the below**

**EITHER** On reconvening the meeting I informed you that the decision was reached to uphold your appeal against (outcome) The Appeals Panel rationale for this is *(insert rationale)*

You are reinstated back to work with immediate effect. (If relevant)

**OR** On reconvening the meeting informed you that the decision was reached to dismiss your appeal and uphold the decision of the stage 3 panel that *(insert stage 3 outcome)*.

You have now exercised your right of appeal under the Performance Capability Procedure and this decision is final.

Yours sincerely

Chair of the appeal meeting

Copy to HR TU/other representative, line manager