

# Performance Management Policy and Procedure



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## 1. Introduction

This policy is designed to provide a framework within which managers can work with employees to maintain satisfactory standards of performance and to encourage improvement where necessary. It also determines the procedure to be followed when performance issues have not been resolved by advice and encouragement, training or increased support.

It is designed to deal specifically with performance management, so does not apply to cases involving sickness absence, proposed redundancies or misconduct. In those cases, reference should be made to the appropriate policy or procedure, or further advice sought from the HR Business Partnering team. To distinguish whether an issue should be managed through this procedure or the Sickness Absence or Disciplinary Procedures, guidance notes are attached at Appendix 1.

Any performance issue arising during an employee's probationary period will normally be addressed in accordance with the Probation Procedure.

The People and Culture Strategy details the culture we are creating at LSBU, the University's expectations in terms of behaviours and conduct, and the support we will provide to employees. However, LSBU's 'Behavioural Framework' and EPIIC Values will not be used in any way in conjunction with the operation or deployment of the Performance Management Policy, whether directly or indirectly.

The policy is non-contractual but applies to all employees regardless of length of service, inclusive of those employed by SBUEL, and those still within their probationary period (for whom the LSBU Probation Policy will also apply). It excludes agency workers, consultants and self-employed contractors. For those in senior posts, the provisions of the LSBU Articles will apply.

## 2. Aims and Principles

The aim of the policy is to encourage all employees to achieve and maintain high standards of performance and to create a fair and transparent process for managing work performance and capability issues promptly. As such, the following principles will apply:

- The procedure will be used where an employee is unable to perform the duties of their role at the required standard.
- When unsatisfactory performance becomes apparent, line managers must raise the matter with the individual as early as possible, taking a structured, collaborative approach to manage performance effectively and minimise any impact on the team.
- The procedure will normally be implemented sequentially. Exceptionally, however, there may be occasions when the seriousness of the poor performance would warrant an immediate move to the formal or final stages.
- Timescales for meetings, reviews, hearings and appeals may be varied by mutual agreement, both to avoid unreasonable delay and allow for reasonable flexibility. However, the manager hearing the case at each stage will have discretion to agree a timeframe appropriate in the circumstances, balancing the need to give the employee adequate time to demonstrate improved performance with the impact on the University of ongoing performance issues. It is also important to avoid the additional stress that may occur when an employee is placed under additional supervision for an extended period of time.

- The employee will be given a full explanation of the aspects of their performance which are of concern, in the form of 1:1 notes, and given an opportunity to state their case before a decision is taken.
- At all stages of this policy, the employee will be provided with the evidence supporting a claim that there are concerns about their performance.
- Where a Performance Improvement Plan (PIP) is implemented, the University will seek to agree each measure with the employee, but where this is not possible, the manager's decision will apply. The University will aim to incorporate the employee's perspectives and revisions into the PIP.
- Employees have the right to be represented and accompanied by their trade union representative, full-time union official or work colleague at all formal stages of this policy, although attendance at informal meetings may also be agreed as a reasonable adjustment (see Section 9).
- At all formal stages of this policy the employee has the right to appeal. All appeals will be heard by a senior manager who has had no previous involvement in the case.
- The performance management procedure is to be used separately from the grievance procedure. Where a grievance is submitted by an employee regarding the application of a performance management process in relation to them, the performance management action will be paused until the grievance has been completed. Similarly, where an employee is already being investigated as part of a grievance procedure, performance management action will not begin until the grievance has been completed.
- Notes of formal performance management and appeal hearings will be taken by a person not involved in the decision-making process and these notes will constitute the only formal record of the hearing unless all parties agree that an audio/visual recording may also be made.
- Audio/visual recordings of meetings may only be made with the express agreement of all parties. Where agreement is obtained, the University will make the record, and the agreement of the parties will be recorded in the notes of the meeting. A copy of the recording will be made available to the employee and their companion, and to the managers and HR representative attending the meeting (and, where applicable, to the manager allocated to deal with any appeal).
- The HR Business Partnering team will be proactive in making employees involved in performance management proceedings aware of the available support and who to contact if they require reasonable adjustments etc.
- Performance management matters should be dealt with sensitivity and with due respect for the privacy of the employees involved. For this reason, all those involved must treat as confidential any information communicated to them in connection with a performance management matter. Employees are, however, permitted to discuss details of the matter with their union representative or workplace colleague.
- LSBU acknowledges that staff have freedom within the law to question and test received wisdom, and to put forward new ideas and controversial or unpopular opinions, without placing themselves in jeopardy.
- Employees will normally be told the names of any witnesses whose evidence is relevant to performance management proceedings against them, unless both the Hearing Manager and HR representative consider a witness's identity should remain confidential.

- Annual monitoring of formal performance management action will be undertaken, to include a record of the equalities data and the grade and length of service of any employees issued with a PIP.

### **3. Performance Monitoring and Responsibilities**

Senior managers are responsible for the overall performance of LSBU and driving a high-performance culture across the University, setting organisational, School and Departmental Key Performance Indicators (KPIs) and monitoring management and employee compliance with this policy.

LSBU recognises that employees perform best when they have clear expectations of their role and the associated behaviours, their own objectives as well as the wider University objectives.

As such, line managers are responsible for setting performance objectives for new employees within 4 weeks of their start date as part of their induction plan, appraising the performance of an employee in line with the PDR process, carrying out 1:1 meetings with employees to review performance and progress against set objectives and making a record of all discussions and agreed actions using the 1:1 and PDR documentation.

Objectives will be in line with an employee's job description, grade and appropriate to their working hours, factoring in regular breaks. Managers will proactively support staff where the available resources, including staffing hours, are insufficient to meet demands. In such circumstances, objectives should be revised to reflect the resources available, and staff will be supported with measures such as prioritisation and de-prioritisation to appropriately manage their workload.

Additionally, managers are responsible for ensuring that performance issues are managed promptly and efficiently, to avoid the risk of adverse impact on the employee's mental wellbeing and/or student experience, and with the aim of supporting the individual to improve through training, coaching, mentoring and any other appropriate interventions.

Employees are expected to familiarise themselves with LSBU's procedures as part of their induction and ongoing development, and to understand the University's expectations in terms of their performance objectives and professional behaviour.

Managers will be responsible for ensuring employees have time to do this during normal working hours and for offering support where required. The HR Business Partnering team are also available to offer support to managers if required.

Employees are also responsible for carrying out their role effectively and diligently and striving to attain performance objectives, being accountable for and reviewing their own performance and objectives as part of the PDR process, actively participating and cooperating with their manager to address performance concerns and adhering to any PIP, where one is issued. A template PIP is attached at Appendix 2; this may be appropriately adapted to suit the circumstances of the case.

The HR Business Partnering team will be responsible for:

- Advising managers how best to address concerns about employee performance;
- Providing advice and guidance to all parties on the operation of this policy and the circumstances in which informal and formal action should be considered;
- Where necessary, arranging formal meetings and ensuring documents are shared with all relevant parties and saved in the HR system;
- Attending formal meetings to provide HR guidance to the Chair (asking questions where appropriate) and assisting the Chair to compile their outcome letter.

LSBU's Occupational Health (OH) providers are responsible for providing LSBU with impartial advice on health-related matters which may be impacting on an employee's performance. OH will therefore provide LSBU with diagnostic and prognostic advice on an employee's illness or condition to enable managers to make informed decisions. Medical advice, including from OH, will be taken seriously by management and Human Resources. Any questioning by management or HR of OH or medical advice will be expected to be on clearly evidenced and documented medical grounds.

The HR Business Partnering team, in co-operation with the recognised unions, are also responsible for reviewing this policy's application to ensure consistency across the University, and for making and communicating changes where required by changes to employment legislation. Changes will not be made without formal consultation with the recognised trade unions.

The HR Business Partnering & Learning and Development team also provide advice, guidance and training to managers as part of the University's management development programme.

## **PROCEDURE**

As part of day-to-day management, every employee will normally have regular supervision meetings with their manager. This will include a period of induction, probationary reviews, and 1:1 meetings, and regular PDRs. The 1:1 meetings are an opportunity to:

- Receive feedback on what's going well and where improvement or development is needed;
- Discuss and agree workload, priorities, expectations and objectives;
- Receive guidance, information and coaching on work challenges;
- Discuss learning and development needs.

Where a manager has concerns about an employee's performance, they are expected to provide evidence supporting their concerns at a regular 1:1 meeting in order to address performance issues promptly. HR will provide managers with training on raising issues in a clear, constructive and supportive manner and with appropriate sensitivity.

### **4. Informal Procedure**

The aim of the informal procedure is to bring performance concerns to the attention of the employee at the earliest opportunity and to explore causes, identify responsibilities and agree actions to be taken. The informal stage of the performance procedure will only be initiated if routine feedback and discussions between staff and their line managers has not resolved issues that have arisen in a colleague's work or produced satisfactory improvement.

It is important to recognise that many issues of capability can, and should be, resolved without recourse to the formal procedure. Line managers and employees are therefore encouraged to have open and honest dialogue about performance as part of the day-to-day management and through effective 1:1s, as outlined above.

Where an employee believes that they cannot perform an aspect of their job at a satisfactory level, they should immediately notify their line manager and seek assistance.

Where a line manager believes it necessary to invoke the informal procedure, they will invite the employee to attend a meeting to discuss the performance issue, giving at least 5 working days' notice. The line manager should include a copy of this Policy, along with any other policies or documents they intend to refer to, and the employee's job description.

During the informal discussion, the line manager should address the following:

- The area(s) of performance causing concern, providing examples and evidence;
- Clarification of the expected standards of performance required, with reference to relevant documents (Academic Framework, local procedure guides etc.);
- Potential causes of the poor performance (see below);
- Any training, coaching or support needed to meet the required standard of performance.
- In cases of ill health/disability, reasonable adjustments should be implemented, and the performance management process suspended to allow time for the employee's performance to improve once they are in place.

Potential causes for poor performance may include insufficient training or experience, lack of competence, unclear responsibilities or standards, changes in management, lack of motivation, personal difficulties, ill health, disability, stress, work overload or lack of resources.

While line managers must explore health and disability issues with the employee, the employee is also responsible for bringing any health and disability issues to the attention of their manager at the earliest opportunity. The University understands, however, that discussing personal matters will not always be easy so managers will be supportive of disclosures made. This may include arranging an OH referral to identify potential reasonable adjustments.

The line manager should also consider any evidence the employee presents in support of their case. Options available at this stage would include:

- Where the manager accepts the employee's evidence or mitigation, taking no further action;
- Training/re-training/development, including mentoring or coaching;
- Referral, where appropriate, to OH, LSBU's Employee Assistance Provider, or Access to Work;
- Closer supervision for a limited period, such as increasing the frequency of 1:1 meetings;
- Temporary alterations to duties, which do not change the job, but allow the employee to develop at a slower pace or focus on specific aspects of their role.

Review timeframes will be influenced by the extent of the under-performance, the required level of training development, OH recommendations, etc, so should be agreed taking these factors into account. The period of review should also reflect the pattern of work, planned periods of absence, the academic cycle and the frequency of opportunities to demonstrate improvement. Most review periods will be two months (but exceptionally up to 3 months) in duration.

The line manager must also keep a written record of the discussion, providing a copy to the employee within 10 working days.

During the agreed timeframe, the line manager should provide regular feedback and inform the employee of their assessment of progress – line managers should not wait until the end of the review period to provide feedback.

Where it becomes evident during the review period that the employee's performance will not reach the expected standard by the end of the review period, the line manager may choose to escalate to the next stage of the procedure at that point.

Where the employee achieves the required improvement by the end of the review period, the line manager should confirm that this is the case and that the review period will conclude, reminding the employee of the need to sustain the improvement. Where this improvement is subsequently sustained for a further period of 3 months, any new concerns regarding the same issue(s) will be addressed again under the informal procedure, rather than being immediately escalated to the formal procedure below.

Should some improvement in performance occur, but the required standard not yet be achieved, a discussion should be held to ascertain if any additional support is required.

Depending on the circumstances involved, the review period may be extended or matters may be progressed to a formal procedure.

If there has been no discernible or sufficient improvement, and no reasonable mitigating circumstances, the line manager should inform the employee that concerns remain, and that management of their performance will now be undertaken using the formal procedure.

## **5. Formal Procedure**

The formal process provides a structured time-bound framework within which an employee's poor performance can be managed. Prior to entering the formal process, the line manager should ensure that all necessary interventions, including training, guidance and support, Occupational Health recommendations and reasonable adjustments under the Equality Act have been implemented to support the employee to improve their performance.

Line managers must seek HR advice before commencing the formal performance process and throughout the various stages of the procedure.

## **6. Stage 1**

If there is no improvement in performance during the informal stage, the employee will be invited, in writing, to attend a Stage 1 Formal Performance meeting.

They should be given at least 10 working days' notice of the meeting and be advised of their right to be accompanied (see Section 10 below). The meeting will be chaired by the employee's senior line manager, and a note taker will also attend, along with a member of the HR Business Partnering team.

The invitation will clarify the performance concerns to be discussed at the meeting and enclose any documents the line manager intends to refer to, plus a copy of this Policy, and the employee's job description.

At the meeting the line manager will confirm that the employee's performance is now being managed under Stage 1 of the formal procedure, and clearly explain the areas in which they believe that the employee is under-performing. The purpose of the meeting is to enable exploration of the unsatisfactory performance, to review the impact of any training provided, discuss any evidence provided by the employee to demonstrate their improved performance and to consider potential additional training or other support available.

During the meeting, the Chair will discuss with the employee the possible causes for the unsatisfactory performance and allow them an opportunity to share their perspective.

If the performance issues relate to ill-health, or the employee is disabled, the Chair should review Occupational Health reports and other relevant documents, to ascertain whether reasonable adjustments have been recommended, and where implemented, their impact on the employee's performance.

If the employee is able to demonstrate that their performance does actually meet the required standards, the Chair will confirm that no further action will be taken at this stage. However, where the Chair agrees with the line manager's perspective, they may make one or more of the following recommendations:

- The implementation of a PIP by the line manager, where appropriate to include a requirement for the employee to attend additional specified training.
- Amending the employee's working pattern, where this has been requested by the employee. NB. Such amendments will only be recommended where they are both operationally feasible and



- where the Chair believes they would support the employee to improve their performance.
- Early termination of any non-contractual School leadership role which is considered to be adversely impacting the employee's performance in their substantive post.
  - Referring the matter to be investigated under the Disciplinary procedure, where the issues are determined to be conduct, rather than performance, related.
  - Where there is a breakdown in the working relationship or in communication, alternative ways forward such as different ways of working or exploring the use of mediation.

Following the meeting, the Chair will write to the employee within 10 working days to confirm their recommendations and to warn them that if they fail to improve and sustain satisfactory performance, it may be necessary to move to Stage 2 of the policy and that ultimately a failure to achieve and maintain satisfactory performance could lead to dismissal.

Where a formal PIP is recommended, the Chair should remind the employee of the possible consequences if their performance continues to fall below the expected standard. Review timeframes will be influenced by the extent of the under-performance, the required level of training development, OH recommendations, and any other relevant factors, so should be set taking these factors into account. The period of review should also reflect the pattern of work, planned periods of absence, the academic cycle and the frequency of opportunities to demonstrate improvement. Most review periods will be two months (but exceptionally up to 3 months) in duration.

The employee will have an opportunity to offer written feedback on and revisions to any proposed formal PIP. They should do so within 10 working days of a draft formal PIP being sent to them by their line manager.

During the review period, the line manager will hold regular interim review meetings with the employee, to review progress against the PIP, and to ensure that any agreed support and training is being implemented promptly. Interim meetings will be held on a 1:1 basis and the employee will not have a right to be accompanied, except where this has been agreed as a reasonable adjustment to support a disabled employee. Where there are new examples of unsatisfactory performance within the same themes identified on the PIP – and likewise examples of improvement – the manager should highlight and discuss these with the employee with a view to assisting them in reaching the standards required.

If during this period, the manager becomes concerned about other areas of the employee's performance not included on the PIP, these must be discussed at the earliest possible stage. Where area theme not already covered by the ongoing performance management process is raised, this should not immediately be added to the current PIP and review process. The sequential escalation outlined in this policy should be followed, meaning that new concerns should first be addressed in regular 1:1 meetings then, where appropriate, via the informal process outlined above. If the concerns are taken forward formally, the Stage 1 Chair can determine whether they should be appended to an existing PIP or whether a separate PIP is appropriate.

At the end of the review period, a Stage 1 Formal Performance Review meeting will be held, to enable both parties to discuss the employee's progress, and the line manager to confirm the outcome of the review period. The employee will be given at least 10 working days' notice and be advised of their right to be accompanied. A note taker will also attend, along with a member of the HR Business Partnering team.

If the performance issues relate to ill-health, or the employee is disabled, the line manager may also seek a further Occupational Health report to ascertain if any further support can reasonably be offered before making a final decision to escalate to Stage 2.

Where the line manager feels that the employee has met the required standard of performance, they will confirm that no further action will be necessary, making it clear that should there be any

subsequent lapse in performance in regard to those areas covered by the PIP, within the next 6 months, action may not re-start at Stage 1 but may commence at Stage 2.

If the line manager feels that there has been some, but insufficient, improvement, the review period will be extended by one further month, although this may be adjusted take account of the pattern of work, planned periods of absence, the academic cycle and the frequency of opportunities to demonstrate improvement.

However, if the employee's performance does not sufficiently improve during either the initial or extended review period, **or** their performance initially improves, but then declines during the following 6 months to an unsatisfactory level relating to the areas covered by the PIP, the line manager will confirm that management of their performance will be escalated to Stage 2 of the formal procedure.

The outcome of the Stage 1 Formal Performance Review meeting will be notified to the employee and their representative in writing within 10 working days of the meeting being held. The outcome letter will confirm whether the review period has been completed successfully, or is to be extended (and if so, for how long), or whether the line manager believes the matter needs to be escalated to Stage 2. The employee will also be advised of their right of appeal (see Section 10 below).

## **7. Stage 2**

If the line manager believes the employee has demonstrated insufficient improvement in performance during the Stage 1 review period (or that the required performance was not sustained – see above), the employee will be invited, in writing, to attend a Stage 2 Formal Performance meeting.

The meeting procedure, discussion and documentation will mirror that used at Stage 1, except that the meeting will be chaired by a member of the School/Directorate Leadership team, accompanied by a note taker and a member of the HR Business Partnering team.

If the employee is able to demonstrate that their performance does actually meet the required standards, the Chair will confirm that no further action will be taken at this stage. However, where the Chair agrees with the line manager's perspective, they may make one or more of the following recommendations:

- The extension of the PIP or implementation of a further PIP by the line manager, where appropriate to include a requirement for the employee to attend further specified training.
- Amending the employee's working pattern, where this has been requested by the employee. NB. Such amendments will only be recommended where they are both operationally feasible, and where the Chair believes they would support the employee to improve their performance.
- Early termination of any non-contractual School leadership role which is considered to be adversely impacting the employee's performance in their substantive post.
- Referring the matter to be investigated under the Disciplinary procedure, where the issues are determined to be conduct, rather than performance, related.
- Where there is a breakdown in the working relationship or in communication, alternative ways forward such as different ways of working or exploring the use of mediation.

Following the meeting, the Chair will write to the employee within 10 working days to confirm their recommendations and to warn them that if they fail to improve and sustain satisfactory performance, it may be necessary to move to Stage 3 of the policy and that ultimately a failure to achieve and maintain satisfactory performance could lead to dismissal.

Where a further formal PIP is recommended, the Chair should remind the employee of the possible consequences if their performance continues to fall below the expected standard.

Review timeframes will be influenced by the extent of the under-performance, the required level of training development, Occupational Health recommendations, and any other relevant factors, so should be agreed taking these factors into account.

The period of review should also reflect the pattern of work, planned periods of absence, the academic cycle and the frequency of opportunities to demonstrate improvement. Most review periods will be two months (but exceptionally up to 3 months) in duration.

During the review period, the line manager will hold regular interim review meetings with the employee, to review progress against the PIP, and to ensure that any agreed support and training is being implemented promptly. Interim meetings will be held on a 1:1 basis and the employee will not have a right to be accompanied, except where this has been agreed as a reasonable adjustment to support a disabled employee.

Where there are new examples of unsatisfactory performance within the same themes identified on the PIP – and likewise examples of improvement – the manager should highlight and discuss these with the employee with a view to assisting them in reaching the standards required.

If during this period, the manager becomes concerned about other areas of the employee's performance not included on the PIP, these must be discussed at the earliest possible stage. Where the theme not already covered by the ongoing performance management process is raised, this should not immediately be added to the current PIP and review process.

The sequential escalation outlined in this policy should be followed, meaning that new concerns should first be addressed in regular 1:1 meetings then, where appropriate, via the informal process outlined above. If the concerns are taken forward formally, the Stage 1 Chair can determine whether they should be appended to an existing PIP or whether a separate PIP is appropriate.

At the end of the review period, a Stage 2 Formal Performance Review meeting will be held, to enable both parties to discuss the employee's progress, and the line manager to confirm the outcome of the review period. The employee will be given at least 10 working days' notice and be advised of their right to be accompanied. A note taker will also attend, along with a member of the HR Business Partnering team.

If the performance issues relate to ill-health, or the employee is disabled, the line manager may also seek a further Occupational Health report to ascertain if any further support can reasonably be offered before making a final decision to escalate to Stage 3.

Where the line manager feels that the employee has met the required standard of performance, they will confirm that no further action will be necessary, making it clear that should there be any subsequent lapse in performance in regard to those areas covered by the PIP, within the next 6 months, action may not re-start at Stage 1 or 2 but may commence at Stage 3.

If the line manager feels that there has been some, but insufficient, improvement, the review period will be extended by one further month, although this may be adjusted take account of the pattern of work, planned periods of absence, the academic cycle and the frequency of opportunities to demonstrate improvement.

However, if the employee's performance does not sufficiently improve during either the initial or extended review period, **or** their performance initially improves, but then declines during the following 6 months to an unsatisfactory level relating to the areas covered by the PIP, the line manager will confirm that management of their performance will be escalated to Stage 3 of the formal procedure.

The outcome of the Stage 2 Formal Performance Review meeting will be notified to the employee and their representative in writing within 10 working days of the meeting being held.

The outcome letter will confirm whether the review period has been completed successfully, or is to be extended (and if so, for how long), or whether the line manager believes the matter needs to be escalated to Stage 3. The employee will also be advised of their right of appeal (see Section 10 below).

### **8. Stage 3**

If the line manager believes the employee has demonstrated insufficient improvement in performance during the Stage 2 review period (or that the required performance was not sustained – see above), the employee will be invited, in writing, to attend a Stage 3 Formal Performance meeting.

The meeting procedure, discussion and documentation will mirror that used at Stage 2, except that the meeting will be chaired by a Dean, Director, Pro Vice Chancellor or member of the Executive team, accompanied by a note taker and a member of the HR Business Partnering team.

The Chair should review all the documentation and action taken so far to satisfy themselves that the policy has been applied fairly and consistently and that all necessary support and interventions have been provided.

If the employee is able to demonstrate that their performance does actually meet the required standards, the Chair will confirm that no further action will be taken at this stage. However, where the Chair agrees with the line manager's perspective, they may make the following decisions:

- Redeployment to a lower-level post, requiring similar but lesser skills and without salary protection (with the agreement of the employee); or
- Dismissal with notice or pay in lieu of notice.

Following the meeting, the Chair will write to the employee within 10 working days to confirm their decision.

Any offer to redeploy the employee at this point will be entirely at LSBU's discretion and would be made only where a substantive and vacant post exists and the University is confident that the employee would be able to perform well in that post. It will normally only be offered as an alternative to dismissal, and while the employee is free to refuse any offer of redeployment, the only alternative available will normally be dismissal with notice or pay in lieu of notice.

Where the Stage 3 Chair believes that the employee has not reached an acceptable standard of performance in their current post, and there is no clear immediate post for redeployment (or the employee has rejected this), they may decide to dismiss. Any dismissal will be with full payment in lieu of notice and the decision to dismiss, together with the reasons for dismissal and last date of service, will be set out in the meeting outcome letter.

If the decision is to dismiss with notice due to ill-health capability, the employee will normally be invited to indicate whether they wish to have access to alternative roles within the University as a redeployee during their notice period. If they do, then the notice period may be given as gardening leave rather than paid in lieu; during their notice period, they may apply for any available position at or below their grade as it is advertised, and they will be given priority consideration as a redeployee.

### **9. Right to be Accompanied**

Employees have the right to be represented at formal meetings by a workplace colleague, full-time trade union official or trade union representative.

When arranging Stage 1, Stage 2 or Stage 3 Formal Performance meetings, a member of the HR Business Partnering team will liaise with the employee and their representative and the meeting

Chair to seek a mutually convenient time and date to meet. If the employee or their chosen representative is unable to attend on the first identified date, the meeting may be postponed (normally for up to 5 working days), and a different date will be agreed depending on the availability of all parties.

If the employee's chosen companion is unable to attend within a reasonable timeframe, e.g. due to long-term illness, the employee will be required to seek alternative workplace or union support so the meeting can proceed in a timely manner. The employee will be given reasonable additional time to ensure that any alternative support is adequately prepared and familiar with the case.

The role of the representative will be to support and advise the employee, so they may present statements written by or with the employee, but they may not respond to any questions on the employee's behalf. Colleagues will be allowed reasonable time off from their duties to support an employee without loss of pay, but no-one is obliged to act as a companion if they do not wish to do so.

Where English is not the employee's first language and it is requested, the HR representative will arrange either for a translator to attend meetings, or for other translation services to be provided. Where an internal translator is proposed, their name should be provided to the employee in advance so that external translation services can be requested if the person named is not considered to be impartial.

Occasionally, it may be agreed that a disabled employee can be accompanied by a family member or carer as a reasonable adjustment, and in this case, the employee will also retain their right to bring a union representative. However, permission must be sought from the HR representative prior to the family member or carer attending the meeting.

## **10. Appeals**

Employees wishing to appeal following a Stage 1, Stage 2 or Stage 3 Formal Performance meeting should do so in writing, within 10 working days of their receipt of the hearing outcome letter. Appeals should be addressed to the Director of People, and clearly set out the employee's full grounds, which should be based on one or more of the following:

- The severity of the sanction being disproportionate to the performance issue;
- The finding of the performance management hearing on a point of fact;
- Failure to adhere to the agreed procedure;
- Concerns of bias/interpretation of evidence;
- New information not available at the time of the meeting which is pertinent to the case and sufficient to have warranted a different outcome.

Employees who have been dismissed will be allowed to retain access to their LSBU emails and OneDrive/shared files until the date of their appeal, so they can transfer any information required to support their appeal to their personal account. In this event, the employee will be required to access the documents on campus, and in the presence of a member of the IT department, and will be permitted to review, save and print documents, but not delete any items. Employees needing reasonable adjustments in accessing their documents should ensure that the adjustments needed are clearly requested in advance of their appointment.

Any relevant supporting documents should also be submitted by the employee. The University will not submit any new evidence at the appeal stage unless it relates to new information provided by the employee.

Receipt of the appeal letter will be acknowledged in writing by the HR representative, and an appeal hearing will be arranged, where practical, within 10 working days of the University's receipt of the

appeal. The purpose of the appeal hearing will be to give the employee an opportunity to explain the grounds of their appeal and the solution they are seeking from the appeals process.

The appeal hearing invitation letter will confirm the employee's right to be accompanied and clarify the possible outcomes of the appeal hearing.

Appeals should be conducted by a manager senior to the Chair whose decision is being appealed, and who has had no prior involvement in the matter. In all cases the Appeal Manager should seek advice from the HR representative prior to proceeding.

Although the same HR representative will normally support the various Formal Performance and Review meetings referenced above, the employee may request the involvement of a different representative. This will be considered by the Director of People.

The employee will have the right to be represented by a colleague or trade union representative at the appeal hearing, as detailed in section 9 above. The HR representative will be present at all appeal hearings, and a note taker will also attend. Notes from the meeting will be circulated for review as stated in section 11 below.

The Chair who made the decision that the employee is appealing will attend the hearing, and should the employee wish the Appeal Manager to meet with any other colleagues, they should explain their reasons so the Appeal Manager can decide whether it would be helpful to do so.

The role of the Appeal Manager is not to revisit the original meeting, but to examine the grounds on which an appeal has been made, so if new information is presented, consideration will be given as to whether (had it been available previously), the original decision would have been different.

The appeal hearing may be adjourned if the Appeal Manager feels they need to carry out any further investigations in the light of any new points raised at the hearing. In this case, the employee will be given reasonable opportunity to consider any new information obtained before the appeal is reconvened, and a period of 5 working days will be provided, although a different timeframe may be agreed by all parties.

At the reconvened appeal hearing, the employee and their companion may comment on any new information arising before any decision is made.

Once the Appeal Manager has considered the appeal and reviewed any additional information, they will summarise their findings in an outcome letter, which will be sent to the employee within 10 working days of the final meeting undertaken as part of the appeal.

The outcome of the appeal hearing could be one of the following:

- Confirmation of the original decision;
- Implementation of a lesser action, such as the offer of redeployment to a lower graded role as an alternative to dismissal (a potential outcome of Stage 3), or the extension of a PIP instead of progression to the next formal stage (a potential outcome of Stages 1 or 2);

A harsher penalty may not be imposed as an outcome. There will be no further right of appeal.

If an employee is appealing against dismissal, the date on which dismissal takes effect will not be delayed pending the outcome of the appeal. However, if their appeal is successful, the employee will be reinstated and reimbursed any pay and other benefits, including pension contributions, increments etc they may have lost. Continuous service will also be unaffected.

## **11. Record of Proceedings**

Notes will be taken at all meetings and drafts will be available to employees for review as outlined below, as well as being issued outcome letters/reports.

Draft notes should be circulated to participants within 10 working days of the meeting, with a deadline of 5 working days for returning signed notes (or details of any requested amendments) to the HR representative and meeting Chair.

Where any amendments are agreed, a revised copy of the notes will be provided for the employee's signature. However, where any amendments suggested by the employee are not deemed by the Chair to reflect what was actually said during the meeting, the original notes will form the official record, but a copy of the employee's amendments will be added to the appendices.

Should the employee fail to return either their signed notes or any proposed amendments by the deadline date, the unsigned notes will form the official record.

In the interest of accuracy, the University may also supplement written notes with an audio recording of the meeting. If this approach is proposed, the consent of all parties must be obtained, and the recordings will be deleted following the conclusion of the performance management process (or appeal where one is submitted). No other requests to record the proceedings electronically will be agreed and unauthorised recordings will not be accepted as evidence.

## **12. Support to employees absent due to ill-health**

Should the employee be absent for 20 or more continuous working days due to ill health at any point while their performance is being managed, their permission will be sought to refer them to Occupational Health or to write to their GP or medical advisor, to obtain an assessment of their fitness to participate in the process.

Where the GP/Occupational Health specialist determines that they are fit to participate, the Slight process will continue, although as stated above, reasonable adjustments may need to be made to support their participation in meetings. In addition, if they are medically unable to attend meetings either in person or remotely, they will be allowed to submit information or responses to questions via email, post or telephone.

Where the employee refuses permission for the University to write to their GP, or fails to co-operate with an OH assessment, or is deemed fit to participate in the process, but fails to attend meetings without good reason the process may continue in their absence, and they will be informed of the outcome.

## **13. Equality and Diversity**

We will apply this policy consistently and fairly and will not discriminate against anyone based on any relevant characteristics, including those set out in the Equality Act 2010. The University will also keep records of the grades and spine points, job roles, length of service and departments or schools of any performance management cases.

Reports of formal performance case numbers and outcomes are provided to senior People and Organisational Development managers to enable effective monitoring across Schools and PSG directorates, and anonymised data is also included in the annual Workforce Report. Monitored information will be shared regularly with the trade unions and will also be available to the trade unions on request.

#### **14. Review**

All policies should be reviewed every 3 years as a minimum, or sooner if there is a change in regulatory guidance, law or best practice. Consultation will take place between the recognised trade unions and HR.



## **Appendix 1 - Application of the Policy**

At the start of employment, new employees will be given clear information about their job roles and performance expectations, and any specific objectives will be clarified so the employee can perform effectively.

During probationary periods, performance will be managed through effective 1:1s, work reviews and line management support, and should performance not be considered satisfactory, the Probation Policy will be used to address the issue.

However, once the employee has passed their probationary period, line managers must differentiate between managing performance on the grounds of **Capability, Sickness Absence or Discipline**. The test simply is to determine whether their concerns are prompted by:

- Under-Performance (Can't do) – Performance Management
- Ill-health (Unable to do) – Sickness Absence
- Wilful negligence or misconduct (Won't do) – Discipline

### **Under-Performance**

Where there are concerns about the employee's ability to perform their job role competently either through lack of skill, ability or knowledge, or because they cannot execute the requisite skills adequately, the Performance policy will be deployed in an attempt to improve performance. Examples include (but are not limited to):

- Inability to meet the needs of students within a teaching context
- Poor communication with students or colleagues
- Using out of date subject/professional knowledge to inform work
- Missing deadlines
- Repeated errors or inaccuracies in course material or other written documents
- Absenteeism\*

\*Such issues may arise because an employee has temporary or permanent health issues which may not necessarily result in excessive sickness absence but may affect their ability to deliver their job role. In this case, the line manager may choose to seek Occupational Health advice to help identify what assistance and support LSBU might be able to provide to enable the employee to improve their performance. If the employee has a disability under the Equality Act 2010, Occupational Health advice may be helpful in determining what reasonable adjustment(s), if any, may be helpful in supporting an improvement in performance.

### **Ill-Health**

Where the employee has a high level of sickness absence, this will be managed in accordance with LSBU's Sickness Absence Policy. However, if there are also concerns about performance, the Performance Management Policy will be used to address these.

### **Wilful Negligence or Misconduct**

LSBU recognises the difference between an employee's lack of skills, knowledge or ability and their deliberate failure (through negligence, carelessness or unwillingness), to perform to the standards of which they are capable. In the latter case the Disciplinary Procedure will apply.

## Appendix 2 – Performance Improvement Plan Template

The PIP is a set of measures designed to help the employee improve their performance. The employee should have the opportunity to contribute towards the setting of this plan, and ideally each measure will be agreed with the employee; however, if agreement cannot be reached LSBU may include any part of the plan without agreement in order to achieve business objectives.

Each plan will be tailored to the individual and documented; the following template offers a helpful way of doing this but the exact format of the PIP can be varied to suit the circumstances.

The PIP should set 'SMART' targets with an agreed review date. SMART targets should always be Specific, Measurable, Achievable, Result-focused and Time-bound. As part of the action plan, any areas or outside factors that have been identified as having had an impact on the employee's performance should be addressed.

<b>Employee's name:</b>		<b>Line manager's name:</b>	
<b>Job title:</b>		<b>Job title:</b>	
<b>Date created:</b>		<b>Date for review:</b>	

<b>Incidence(s) causing concern</b>	<b>Expectation/Objective and Success Criteria</b>	<b>Timescale</b>	<b>Support measures</b> (Support/training/adjustments)	<b>Outcome</b> (Achieved/ partially achieved/ not achieved)

<b>Signed</b> (line manager)		<b>Date</b>	
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I confirm that I have had the opportunity to discuss and develop this plan with my line manager.

<b>Signed</b> (employee)		<b>Date</b>	
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