

Livewell Southwest

Performance Management Policy

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Notice to staff using a paper copy of this guidance

The policies and procedures page of LSW Intranet holds the most recent version of this document and staff must ensure that they are using the most recent guidance.

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Performance Management Policy

1. Equality and Diversity Statement

Livewell Southwest is committed to fairness and equity and values diversity in all aspects of its work as a provider of health and social care services and as an employer of people. We constantly strive to build a workforce that is representative of the community it serves.

Livewell Southwest is committed to eliminating all forms of discrimination on the grounds of age, disability, gender reassignment, marriage / civil partnership, pregnancy maternity, race, religion or belief, sex and sexual orientation in the provision of our services and in recruitment and employment. This enables an environment that is characterised by dignity and respect which is free from harassment, bullying and victimisation.

2. Introduction

- 2.1 Livewell Southwest (LSW) is committed to encouraging and supporting staff to perform to the best of their ability. This policy is designed to encourage improvements in standards of performance and to ensure that reasonable sanctions are applied when required standards are not met.

3. Purpose

- 3.1 This policy applies to all staff with the exception of staff covered by the Medical and Dental Review Body who should refer to the Maintaining High Professional Standards Policy.
- 3.2 This policy provides guidance for managers on ways of minimising the risk of unsatisfactory performance, and how to deal with it should it occur. The overall aim is to encourage and support all staff to perform at a competent level in order to provide high quality services to patients/clients whilst ensuring best use of public money. Staff and managers should have a shared understanding of what competent performance is in the workplace and the consequences of non-achievement.
- 3.3 unsatisfactory performance threatens the effectiveness of the whole organisation and may mean that important deadlines or targets are not achieved. It also places a burden on team colleagues, which may lead to problems with low morale and high stress levels. It is therefore essential that performance is dealt with effectively.
- 3.4 unsatisfactory performance may arise for a number of reasons, some related to the individual and others to the organisation. Reasons, such as those below, must be addressed before instigating this Policy (this list is not exhaustive):
- Lack of supervision
 - Lack of clear goals
 - Objectives set within an appraisal

- Conflict within the team
- Skills and training
- Health concerns
- Up to date job description
- The capability of employees no longer matches the job role.

3.4.1 If Managers have any concerns, these should be discussed with HR before instigating this Policy.

3.5 This Policy is not designed to deal with those aspects of performance which arise either from sickness (see Sickness Policy) or specific issues of misconduct (see Disciplinary Policy).

3.6 If at any time an employee should go off sick whilst being managed under this Policy, they will continue to be managed under unsatisfactory performance on their return, however, they will also automatically be dealt with under the Sickness Policy.

3.7 Any discussions about unsatisfactory performance should not be raised for the first time at appraisal meetings.

3.8 The Knowledge and Skills Framework (KSF) states that it is anticipated that from commencement in the post it may take up to five years for staff to become fully competent in some aspects of the role as described in the full KSF outline for the post.

3.9 In line with National AfC guidance incremental progression may be affected if a staff member is currently managed under unsatisfactory performance.

4. Duties and Responsibilities

4.1 Employees have a responsibility to:

- Comply with LSW policies and procedures
- Undertake their role as described in their job description, KSF outline and perform those duties to a measurable acceptable standard
- Work towards achieving any objectives as agreed at appraisal
- Be proactive and accept responsibility for achieving set objectives, e.g. setting and arranging dates for training

4.2 Managers have a responsibility to:

- Communicate effectively with staff, including listening and receiving feedback.
- Actively support, guide and train staff to enable them to fulfil their role competently.
- Appraise staff regularly and ensure that objectives are realistic and relevant to the post.
- Discuss and agree any changes to the job role and job description with staff members.

- Agree realistic and measurable standards of performance and ensure that staff understand what is required of them.
- Follow this policy and attend the relevant training.
- Ensure that good practice is followed in situations where a health concern is identified as part of the unsatisfactory performance procedure.

5. Guidance

5.1 There are a number of ways to avoid performance problems as follows:

5.2 Staff induction

5.2.1 A good staff induction will improve performance and staff retention. All new staff must receive an appropriate induction package, which includes both corporate and workplace induction.

5.2.2 The standards of performance required must be explained (using the job description and KSF outline for the post as a guide). These must be reasonable, realistic and measurable.

5.3 Supervision and Appraisal

5.3.1 The line manager must assess and discuss with the employee their performance on a regular basis through line management supervision.

5.3.2 The job description should be kept up to date and must accurately describe what the employee is expected to do.

5.3.3 If any problems have been identified with the individual's work or development during the year, these must be addressed at the time they arise, and not left until the appraisal meeting.

5.4 Training & Development

5.4.1 All employees should receive appropriate training and development available through routes such as the Professional Training and Development Team, Professional bodies, external providers etc.

5.5 Organisational Change

5.5.1 In the event of organisational change, new legislation, new technology, or new ways of working impacting on an individual, managers should provide opportunities for employees to acquire any new skills and knowledge in advance of the change in order to minimise the risk of performance problems.

5.5.2 If the unsatisfactory performance is wholly or partly due to organisational factors, then these must be addressed first. Once addressed, performance should then be reviewed to ensure the problem has been resolved.

5.6 Leadership and Communication

5.6.1 Good leadership and two-way communication with staff is a crucial aspect of a manager's role. Open and honest discussions within a team about people's roles and expectations will help to reduce misunderstandings and avoid conflict.

5.7 Support from Human Resources

5.7.1 Managers are encouraged to seek the advice of a HR representative when dealing with issues of unsatisfactory performance. It is very important that performance problems are addressed at the earliest opportunity.

6. Procedure

6.1 If the employee is not performing at the level described in the KSF outline for the post, the specific reasons for this must be established and an action plan agreed detailing those aspects of the KSF outline still to be achieved and the development needed to help the individual with this (see Appendix A). If Managers have any concerns, these should be discussed with HR before instigating this Policy.

6.2 Informal Process – Stage 1

6.2.1 If it is considered that an employee's work falls below the required standard of performance, the manager must work constructively with the employee to address this. The overall objective is to support the employee in order to improve performance to an acceptable level.

6.2.2 The manager must discuss the unsatisfactory performance with the employee, set some clear objectives for improvement and document these discussions. A signed record of any meetings should be kept by both parties for future reference (see Appendix B). This record must be kept confidentially in the individual's management file.

6.2.3 When discussing the reasons for the unsatisfactory performance, it may be agreed that additional support is needed on a temporary basis, such as training or supervision. This should be put in place and any improvements in performance should be monitored. The discussions, any support provided, and the outcomes should all be documented before moving to the next stage. Individuals should be signposted to the Performance Management Policy on the Intranet.

6.2.4 The informal stage should not exceed one working month from the date of the initial discussion. The staff member must be clear about the performance improvement required. The process will move to Stage 2 if the informal stage does not lead to achievement of the objectives within the specified and agreed timescale.

6.2.5 At the end of the review period the manager will meet with the employee to discuss their performance. The possible outcomes may be:

- (i) Confirm in writing that the employee's performance has improved to the required standard and no further action is required (other than to maintain and monitor the improvement through the usual line management supervision and appraisal processes.)
- (ii) The employee's performance has improved, but not to the required standard. If it is felt that further improvement is likely, then a second review period of one working month and a second review date set.
- (iii) The employee's performance has not improved, and no improvement seems likely, leading to Stage 2.

6.3 Formal Stage 2

6.3.1 The manager must meet with the employee to discuss their performance, remind them of the standards required as discussed at the Informal Stage and give them an opportunity to comment. The nature and extent of the performance problem and the reasons for it must be properly investigated. Wherever possible, the measures of performance must be objective rather than subjective.

6.3.2 The employee may seek representation from their Trade Union and the manager will seek support from a HR representative.

6.3.3 A signed record of any meetings should be kept by both parties for future reference (see Appendix C). This record must be kept confidentially in the individual's management file.

6.3.4 In most circumstances the required improvement should be demonstrable within one month or as agreed by both parties. It is the manager's prerogative to review the situation at any point. If in doubt about the timescale, managers should seek further guidance from HR.

6.3.5 The manager should support the employee, and carefully monitor and assess their performance during the review period, collecting evidence as objectively as possible.

6.3.6 At the end of the review period the manager will meet with the employee to discuss their performance. The possible outcomes may be:

- (iv) Confirm in writing that the employee's performance has improved to the required standard and no further action is required (other than to maintain and monitor the improvement through the usual line management supervision and appraisal processes).
- (v) The employee's performance has improved, but not to the required standard. If it is felt that further improvement is likely, then a second review period of one working month and a second review date set.

(vi) The employee's performance has not improved, and no improvement seems likely, leading to Stage 3.

6.3.7 During Stage 2 monitoring employees are not permitted to apply for any internal job vacancies/secondments unless approved by a senior HR representative.

6.3.8 During Stage 2 monitoring employees are not permitted to work additional hours or overtime, this restriction relates to work both in substantive posts and other areas within Livewell Southwest. In addition, employees are not permitted to undertake work in this organisation via NHSP or other agencies. This restriction can only be removed by a Head of Service or Deputy Locality Manager or Professional Practice and is only expected to be removed in exceptional circumstances.

6.4 **Formal Stage 3**

6.4.1 If the employee does not achieve a satisfactory standard of performance within the agreed time frame, then a further meeting will be held. The employee may seek representation from their Trade Union, and the Manager will seek support from a HR representative.

6.4.2 At this meeting, the unsatisfactory performance will be discussed again, together with any support the employee has received, and any further support which could reasonably be provided. A further review date will be agreed within one working month and the performance closely monitored during that time.

6.4.3 At the end of this meeting, the Manager and HR representative will make a decision, based on all the available information, of the employee's performance during the period of review. There are two possible outcomes:

(i) The parties may agree that the performance has improved the review comes to an end.

(ii) Refer the case to Stage 4 – Capability Panel.

6.4.4 A signed record of any meetings should be kept by both parties for future reference (see Appendix D). This record must be kept confidentially in the individual's management file.

6.4.5 The employee will be advised in writing that if their performance does not improve to the required standard by the review date and the matter will be referred to a Capability Panel.

6.5 **Stage 4 – Capability Hearing**

6.5.1 The purpose of the Capability Panel is to ensure that the Policy has been properly followed, and to agree an outcome which is reasonable in the circumstances.

The capability hearing will follow a 3-step process as outlined in legislation. This is as follows:

Step 1 – Written Notification

6.5.2 Livewell Southwest will set out in writing the employee’s alleged circumstances which have led it to contemplate dismissing them. In this letter the employee will be invited to attend a meeting (described in Step 2) and advised of their right to be accompanied by either a Trade Union representative or a work colleague. The letter inviting the employee to the meeting will also provide an indication of the potential outcome of the meeting, which may include dismissal.

6.5.3 The employee must be aware of the basis of the alleged circumstances in advance of the meeting (Step 2) and the employee will be given all relevant documentation relating to their case at least 5 working days (Monday – Friday) in advance of the meeting.

6.5.4 The employee must provide sufficient copies of any relevant documentation relating to their case for all panel and management representatives 5 working days in advance of the meeting.

Step 2 – The meeting

6.5.5 The employee will be responsible for arranging for their Trade Union representative/work colleague to attend the meeting. In the event that they or their representative are unable to attend the planned meeting they should contact the meeting organiser to request for the meeting to be rescheduled.

6.5.6 The meeting will be held at a venue decided upon by Livewell Southwest and where consideration has been given to the privacy and dignity of the employee.

6.5.7 The organisation will be represented at the meeting by at least the following:

Chair	This will normally be a Senior manager in the area where the employee works.
HR Representative	With no prior direct involvement in the case

6.5.8 A flowchart at Appendix E outlines the process for the meeting.

6.5.9 The Chair, following introductions, will ask the presenting manager to explain the reason for bringing the case to the meeting and go through the evidence that has been gathered. The employee or their

representative followed by the Chair and HR representative will be given the opportunity to ask questions of the presenting manager.

6.5.10 Witnesses to support the management position may then be called.
Each witness:

- i) Will be questioned by the presenting manager;
- ii) May be questioned by the employee or their representative;
- iii) May be questioned by the Chair or HR representative;
- iv) May be questioned again by the presenting manager on any point that has been raised.

6.5.11 The employee will then present their case and any mitigation. The presenting manager followed by the Chair and HR representative will be given the opportunity to ask questions of the employee.

6.5.12 Witnesses to support the employee's position may then be called.
Each witness:

- i) Will be questioned by the employee or their representative;
- ii) May be questioned by the presenting manager;
- iii) May be questioned by the Chair or HR representative;
- v) May be questioned again by the employee or their representative on any point that has been raised.

6.5.13 The presenting manager followed by the employee or their representative will then have the opportunity to summarise their case, during which no additional information that has not already been considered will be introduced.

6.5.14 The Chair will call an adjournment before reaching a decision and come to a clear view about the facts. If they are disputed, the Chair must decide on the balance of probability which version of the facts is true.

6.5.15 Following an adjournment the Chair will give the employee notice of their decision at the end of the meeting. All outcome decisions will be confirmed in writing within 5 working days of the meeting along with the right of the appeal.

6.5.16 Possible outcomes:

- Set a further review period of one working month if processes have not been properly followed.
- Dismissal, if there is no other practical alternative.

6.5.17 **Step 3 – The Appeal** - Employees will be advised of their right to be accompanied by either a Trade Union representative or a work colleague

6.5.18 Employees will be given the opportunity to appeal the outcome of the meeting described in Step 2.

6.5.19 Where a dismissal has taken place, the appeal meeting need not take place before the dismissal has taken effect (for instance, during a period of notice).

An employee who wishes to lodge an appeal against their dismissal should inform a Senior HR representative within five working days of receiving written notification of the dismissal. Any appeal must be in writing and should include the grounds for the appeal.

6.5.20 In order to hear the appeal, a further meeting will take place. The organisation will be represented at the meeting by at least the following:

Chair	This will normally be a more senior manager than the one on the original panel. The Chair will not have had any prior involvement in the case
HR Representative	Normally a senior HR representative with no prior involvement in the case

NB: If an Executive Director is subject to a Dismissal, the Appeal will be to Livewell Southwest Board Members.

A flowchart at Appendix F outlines the process for the appeal meeting.

6.5.21 The Chair, following introductions, will ask the employee or their representative to make a statement which sets out their grounds of appeal. The Chair of the original meeting followed by the Appeal Chair and HR representative will be given the opportunity to ask questions of the employee.

6.5.22 Witnesses to support the employee position may then be called.
Each witness:

- i) Will be questioned by the employee;
- ii) May be questioned by the Chair of the original meeting;;
- iii) May be questioned by the Appeal Chair or HR representative;
- vi) May be questioned again by the employee on any point that has been raised.

6.5.23 The Chair of the original hearing will make a statement which outlines how they came to their decision at the original hearing. The employee or their representative followed by the Appeal Chair and HR representative will be given the opportunity to ask questions of the employee.

6.5.24 Witnesses to support the Chair of the original hearing's position may then be called.
Each witness:

- i) Will be questioned by the Chair of the original hearing;
- ii) May be questioned by the employee or their representative;
- iii) May be questioned by the Appeal Chair or HR representative;
- vii) May be questioned again by the Chair of the original hearing on any point that has been raised.

6.5.25 The presenting manager followed by the employee or their representative will then have the opportunity to summarise their case, during which no additional information that has not already been considered will be introduced.

6.5.26 The Appeal Chair will call an adjournment before reaching a decision and come to a clear view about the facts. If they are disputed, the Appeal Chair must decide on the balance of probability which version of the facts is true.

6.5.27 Following an adjournment the Appeal Chair will give the employee notice of their decision at the end of the meeting. All outcome decisions will be confirmed in writing within 5 working days of the meeting. There is no further right of appeal and is the end of the internal process.

6.5.28 Notes:

- (i) An employee will not be dismissed because of unsatisfactory performance unless a reasonable level of additional support, and opportunities to improve (with reasonable targets and timescales) have been offered, as described in this policy.
- (ii) The authority to dismiss staff lies with the Panel Chair.
- (iii) Managers responsible for carrying out the investigatory process will not be involved in making decisions at Capability Panel meetings.

7. Training Implications

7.1 Training will be provided to Managers on their duties in relation to this Policy.

8. Monitoring Compliance

8.1 The effectiveness of this policy will be monitored both in terms of whether the process was properly followed leading to a legal and fair outcome, and whether managers at all levels are taking the opportunity to learn from any problems and improve their overall approach to people management.

All policies are required to be electronically signed by the Lead Director. Proof of the electronic signature is stored in the policies database.

The Lead Director approves this document and any attached appendices. For operational policies this will be the Head of Service.

The Executive signature is subject to the understanding that the policy owner has followed the organisation process for policy Ratification.

Signed: Director of People and Professionalism

Date: 28th March 2023