UNIVERSITY OF
LINCOLN

Improving Performance Policy and Procedure

Version 1.6 / April 2023

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1. Purpose

The University places great importance on maintaining levels of performance at an acceptable standard. This policy and procedure provides a fair and objective process to enable Managers to ensure that those standards are met in every aspect of the University's operations. Whilst not a statutory legal framework, this Policy and Procedure are in line with the ACAS guidance on managing performance.

The policy's aims are to:

- Establish a constructive approach to managing performance issues and raise an employee's performance to the agreed standard through effective supervision, mentoring, coaching, training and / or other appropriate support
- Ensure a fair and consistent process is applied where an employee is experiencing performance difficulties
- Ensure issues of under-performance are handled appropriately with any underlying reasons taken into account; and that the employee is given all reasonable assistance to overcome performance issues

2. Scope

This policy and accompanying procedure applies to all employees including those employed on fixed-term contracts, after successful completion of their probationary period.

3. Principles

3.1 The University cannot accept under-performance from its employees and will address such issues in a reasonable, timely and constructive manner.

3.2 The University will establish realistic and measurable standards of performance for each role. Line Managers are responsible for explaining these standards to employees through induction and probation, and for monitoring ongoing performance. Line Managers should keep records or brief notes of these regular meetings to monitor performance. They should support employees to achieve these standards through day-to-day management, and effective discussions about support and development through the appraisal process.

3.3 This policy and procedure is only invoked when normal Line Management action has been unsuccessful and there is evidence that there has not been an acceptable level of improvement. This policy should not be seen as a substitute for effective and supportive day-to-day Line Management of performance issues; nor should such issues be allowed by the Manager to accumulate, unresolved, until recourse to this policy becomes inevitable.

3.4 Where all informal actions to support the improvement in performance have failed, the formal procedure detailed in section 6 below will apply.

3.5 The University is committed to support staff in difficulty, this may include such things as supporting employees to gain role required qualifications or training and is keen to ensure that this policy is not seen as punitive. It provides a process of review, assessment and recommendations, which must be transparent and understood by everyone in the University.

3.6 The University cannot guarantee to maintain employment if an acceptable level of performance is not achieved following the exhaustion of this procedure.

4. When does this Policy and Procedure apply?

This procedure should be used after relevant and evidenced day-to-day Line Management action has demonstrably failed. This policy is accompanied by Manager / Employee Guidance which should be read in conjunction with this policy.

4.1 Some examples of issues to be dealt with under this policy include questions about:

- Adequacy of skills, qualifications, and / or knowledge
- Professional insight or judgement
- Ability to manage reasonable workloads
- Ability to work to identified standards
- Ability to identify and work towards appropriate priorities
- Ability to establish good working relationships
- Suitability of qualifications e.g. changes in statutory or professional regulations requiring a qualification not previously required

This is not an exhaustive list – the University reserves the right to invoke the policy in other cases where an employee has been unable to perform their duties to the required standard for the role.

4.2 There will be times when an employee does not perform at the level required. In dealing with cases of poor performance, the University distinguishes between those where the reason is within the employee's control and those where the reason is outside the employee's control. Managers will need to make a judgement about whether a situation is an under-performance issue or a disciplinary issue. Care should be taken to distinguish between the two.

4.3 As a general guide, this policy applies where an employee is motivated to carry out their role but for some reason cannot.

4.4 The University Disciplinary Policy applies where an employee is capable of carrying out their role but chooses not to or is negligent, deliberately careless, unwilling to carry out duties or declines to take up continuous professional

development essential for maintaining the agreed standard of performance. It is advisable to treat all ambiguous cases as under-performance issues in the first instance.

Disability

4.5 If a disability is affecting performance, Managers should bear in mind the legal obligation, under the provisions of the Equality Act 2010, to consider reasonable adjustments when managing an employee with a disability. Further guidance should be sought from the Department of People, Performance and Culture (PPC).

Long-term Sickness

4.6 Where an employee is absent on a long-term basis due to ill health, the Manager must contact PPC for advice. There is separate guidance and an appropriate process which is available in the Managing Sickness Absence Policy. Long term sickness absence may still result in dismissal if the employee is unable to return to work within a reasonable period of time.

5. Responsibilities under this Policy

Employee Responsibilities

5.1 All employees have a contractual responsibility to perform their duties to an acceptable standard and to continue their development in post to keep their professional knowledge up to date, and to meet new challenges in their work, commensurate with their responsibilities. They will be given all reasonable support and encouragement to do so.

5.2 All employees are also responsible for bringing to the attention of their Line Managers, as soon as possible, any work-related problems, health or personal circumstances that are affecting or likely to affect their performance.

5.3 All employees are responsible for fully engaging with their Managers when dealing with issues relating to their own performance.

Management Responsibilities

5.4 All Managers are responsible for overseeing and reviewing employee performance, and addressing problems at the earliest opportunity. They are responsible for giving honest and constructive feedback on performance to their employees. Line Managers must be prepared and ready to have conversations with employees; and deal with performance issues as soon as they are detected, preferably through informal coaching and mentoring.

5.5 It is part of the normal Line Management process (including keeping records of such meetings and discussions) that when there is a lapse in performance, employees are reminded of what is required of them.

5.6 Employees will be managed in a constructive, supportive and compassionate manner, to achieve a plan of action aimed at bringing a sustained improvement up to the agreed standard. Managers will receive training and support in the use of this policy; they must use this policy consistently as a tool for helping and encouraging employees to improve and maintain their performance.

5.7 Problems should, wherever possible be resolved by Line Managers and employees informally. All Managers are responsible for ensuring their employees have:

- Been set realistic objectives and clear standards for performance in line with their role
- Training and development needs identified and met

Responsibilities of the Department of People, Performance and Culture (PPC)

5.8 The Department of PPC is responsible for providing advice and guidance to Managers and has a specific role to provide professional support during the appropriate stages of this procedure.

Responsibilities of the Companion, including Trade Union Representatives

5.9 The companion and / or Trade Union (TU) Representative's role in the process is to support their work colleague or member as described in section 6.3.1, 6.4.2 and Appendix 3. On occasions the companion and / or TU Representative may intervene in order to seek clarification, and advise the member about particular questions.

6. The Improving Performance Procedure

The procedure has three basic stages:

- B2 The Initial Improving Performance meeting
- B4 The Intermediate Improving Performance meeting (if required)
- B5 The Review Improving Performance meeting (if required)

6.1 B2 The Initial Improving Performance meeting

Purpose: To confirm the required standard of performance, the shortfall, the reasons for this; what improvement is needed and by when, and what support will be provided.

6.1.1 The Line Manager should meet with the employee to have a two-way discussion as detailed below, clearly:

- Stating the shortcomings
- Exploring ways that the employee can improve
- Requiring the improvement to be sustained
- Explaining the process and the consequences if the performance fails to improve

6.1.2 The Line Manager may consult with PPC if advice about the procedure is required at this stage. However, a PPC Representative will not be present at this initial meeting.

6.1.3 The meeting will cover:

- The standard of performance required in the role
- Feedback from the Line Manager on the nature of the under-performance issue
- The employee's perceptions of the situation
- The possible reasons for the shortfall in performance
- What improvements are needed
- How and when improvements need to be achieved, including support required and whose responsibility it is to provide such support
- An agreed period for review not normally exceeding three months, recognising the amount of time necessary to assess the improvement required, this may be dependent upon the nature of the role
- An agreement to the method and frequency of the feedback to be provided to the employee throughout the review period
- The possible consequences of inability to improve performance to the required level

6.1.4 Both the Line Manager and the employee should keep a written record of their discussions. The outcomes of the discussion should be recorded in an action plan (see Appendix 2) completed by the employee and the Line Manager, with a copy given to the employee. This document should be used as the basis for monitoring and reviewing the performance for the agreed period.

6.1.5 In exceptional circumstances, if there are any difficulties that remain unresolved by the end of the meeting, these should be recorded, and advice on the way forward should be sought from PPC. The employee must be reminded that action as in section 4.4 may be taken if they do not agree with reasonable actions required for improvement.

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6.2 B3 Action Following the Initial Improving Performance Meeting

6.2.1 During the agreed review period, it will be the Line Manager's responsibility to conduct regular meetings with the employee as part of their normal Line Management actions to, monitor progress, and ensure any support arrangements agreed are provided to the employee.

6.2.2 The Line Manager will conduct a meeting with the employee at the end of this period and confirm to the employee in writing whether an acceptable level of performance has been achieved by the end of the review period. There are two possible outcomes:

- The required improvement specified in the Action Plan at Appendix 2 has been achieved - this will be acknowledged and the employee will be advised that no further action will be taken as long as the improvement is sustained from then onwards and work is performed to the standards required. They will be advised that if this improvement is not sustained, and there is further lapse, then it may lead to action as at 6.3 below.
- There has been little or no improvement - the Line Manager will notify PPC and the employee that this will proceed to the next stage, as at 6.3 below.

6.2.3 The Line Manager must retain a copy of the action plan, record the outcomes of meetings and reviews, and provide copies to the employee. No record of the action plan will be kept by the Department of PPC at this stage.

6.3 B4 The Intermediate Improving Performance Meeting

Purpose: To decide whether the employee requires further support and an extension to the review period.

6.3.1 Where the required standard has not been achieved, the Line Manager and the PPC Representative will set a date for the intermediate Improving Performance Meeting. A letter will then be sent by PPC to the employee, informing them of:

- The date, time, location and purpose of the meeting (to be held without undue delay whilst giving the employee reasonable time to prepare), and that a PPC Representative will also attend the meeting
- The right to be accompanied by a companion and the need to notify PPC of the name of any companion in advance of the meeting (see Appendix 3)
- Notify the employee of the consequences of failure to attend the meeting as set out in Appendix 4.

6.3.2 At the meeting, the Line Manager will explain:

- The purpose of the meeting
- The issues relating to the under-performance of the employee and the action that has been taken to date to support the employee

6.3.3 If the Line Manager decides a further review period is warranted, based upon the information shared during the meeting, then they will inform the employee and set a date to meet at the end of the period. There will be two possible outcomes of this meeting. They are:

- If the required improvement has been achieved, this will be acknowledged and the employee will be advised that no further action will be taken as long as the improvement is sustained from then onwards and work is performed to the standards required. They will be advised that if this improvement is not sustained, and there is further lapse, then it may lead to action as at 6.4 below
- If the required improvement has not been achieved, the employee will be advised that action will proceed to the next stage as at 6.4 below

6.3.4 If the Line Manager decides a further review period is not warranted, they will inform the employee that action will proceed to the next stage as at 6.4 below.

6.3.5 The Line Manager makes the decision and communicates it to the employee. PPC will confirm the decision in writing to the employee and will retain a copy of the letter in the employee's file. The conduct and outcome of such meetings will be confidential to the employee; the Line Manager and PPC. The Line Manager must retain a copy of the action plan, record the outcomes of meetings and reviews, and provide copies to the employee.

6.4 B5 The Final Improving Performance Review Meeting

Purpose: To review what action should be taken about the matter.

6.4.1 If the initial and the intermediate approach to improving performance has been unsuccessful, the Line Manager will inform the employee and PPC. PPC will provide 2 names from a pool of independent Managers to the employee. One of these names will be selected by the employee to conduct the final review meeting. Failure by the employee to make their choice known to PPC within a 48hour period will necessitate PPC to appoint the independent Manager to conduct the final review meeting.

6.4.2 A letter will then be sent by PPC to the employee, informing them of:

- The date, time, location and purpose of the meeting (to be held without undue delay whilst giving the employee reasonable time to prepare), the name of the Manager who will conduct the meeting and that a PPC Representative will also attend
- The right to be accompanied by a companion and the need to notify PPCof the name of any companion in advance of the meeting (see Appendix 3)
- Notify the employee of the consequences of failure to attend the meeting as set out in Appendix 4

6.4.3 At the Review Meeting, the independent Manager will explain the purpose of the meeting and how proceedings will be conducted.

The issues relating to the under-performance of the employee and the action that has been taken to date to support the employee will be re-stated.

The employee or their companion will have the opportunity to present their own supporting information and ask questions.

The independent Manager will put any questions to the employee and will consider the information and explanations provided. They may also seek further information or advice, where necessary.

6.4.4 The independent Manager will communicate the outcome of the final review meeting to the employee and their Line Manager. PPC will confirm the decision in writing to the employee and will retain a copy of the letter in the employee's file. The conduct and outcome of Review Meetings will be confidential to the employee; their Line Manager and PPC.

6.4.5 Options for the Review Decision include:

- Downgrading or consideration of redeployment if a post is available
- Dismissal on the grounds of continued under-performance

See Appendix 5 for further details.

6.4.6 If there are further evidenced sporadic performance issues with an employee, within an 18 month period the University reserves the right to revisit the options for the Review Decision as at 6.4 above.

7. Appeals

7.1 An appeal against the outcome of the Final Improving Performance Review meeting can be submitted by the employee using the Appeal Form at Appendix 6, to be sent to PPC within 10 working days of receiving written notification of the outcome of the Final Review meeting.

7.2 An appeal will be heard by a Panel that has not been previously involved in the matter, comprising:

- Usually a more Senior Manager who will act as chair
- A PPC Representative

7.3 The purpose of the appeal meeting is not to reinvestigate the case but to establish the grounds for appeal and ensure:

- The original decision was reached in a procedurally correct way
- The action taken was reasonable
- The proportionality of the sanction imposed was fair
- The Appeal Panel will consider any new relevant evidence that has come to light since the Final Review meeting

7.4 The Appeal Panel will consider the findings from the Final Improving Performance Review Meeting, and will decide if they need to interview and put further questions to the Manager who conducted that meeting.

7.5 PPC will write to the employee notifying the employee of the time and date of the meeting and will send copies of any relevant written submissions and documentary evidence to appropriate parties before the meeting.

7.6 The meeting should proceed in a formal, polite and respectful manner. The employee will have the right to be accompanied by a companion. Members of the Appeal Panel may put questions to the employee. Questions may also be put to the chair of the Appeal Panel by the employee, and / or their companion.

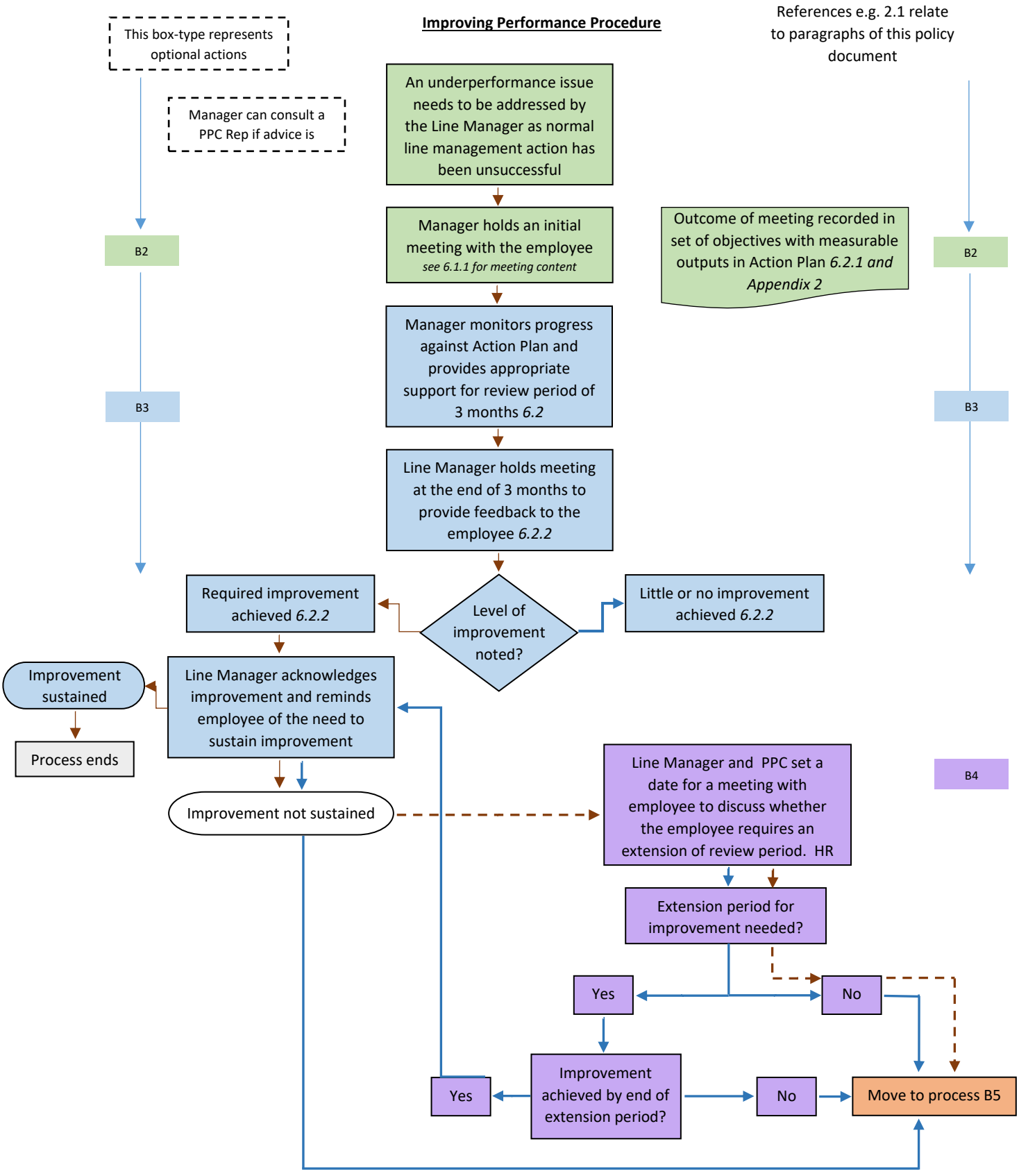
7.7 The Appeal Panel will consider its decision in private. PPC will notify the decision to the employee on behalf of the Chair of the Panel, as soon as possible after the Appeal meeting.

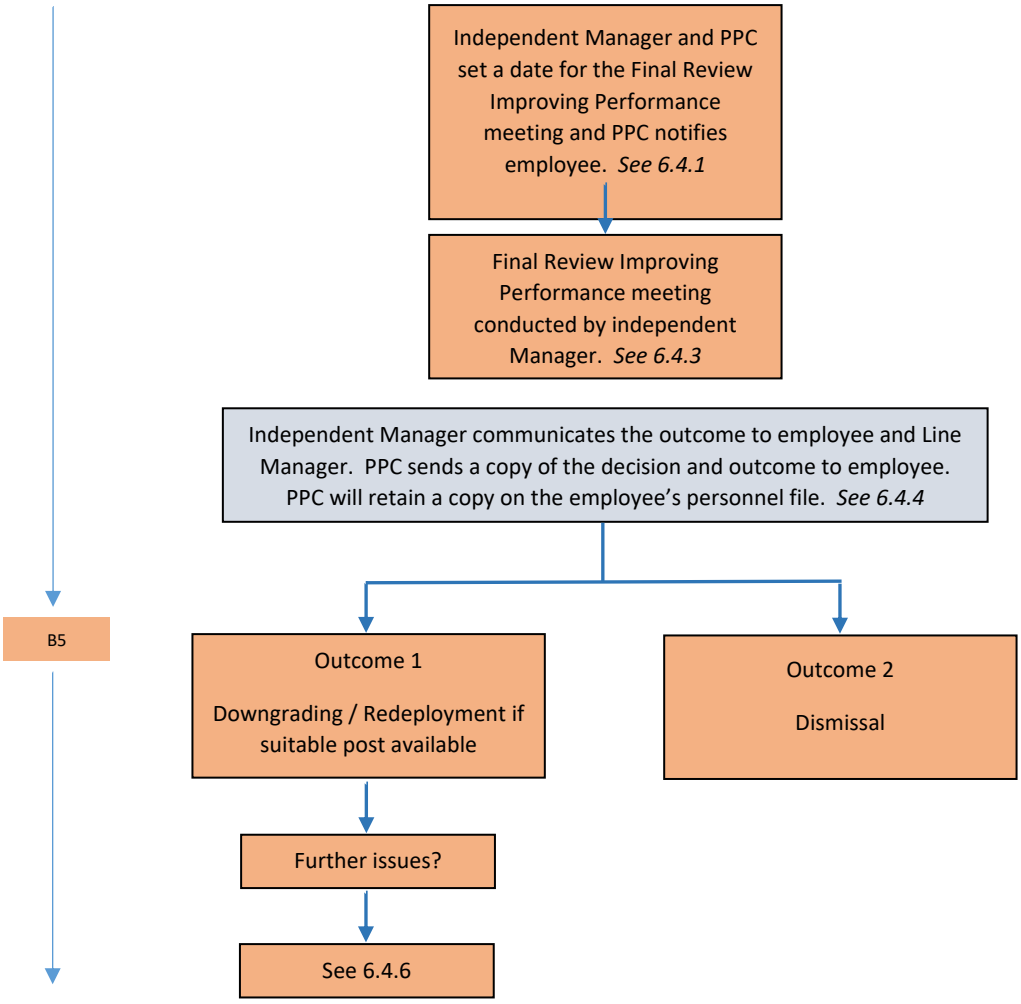
7.8 The letter will be sent by recorded post to their home address. A certificate of recorded delivery will constitute evidence of receipt. A copy of this letter will be sent to the employee's University email account. The decision of the Appeal Panel will also be conveyed to the employee's Line Manager, in writing, by PPC.

7.9 Where an appeal is successful and the decision is not to impose any penalty, the reference to the action concerned will be removed from the employee's file and the employee will be notified accordingly in writing. Where the appeal decision is to substitute a lesser penalty than that previously imposed, the employee's file will be noted and the employee will be notified accordingly in writing.

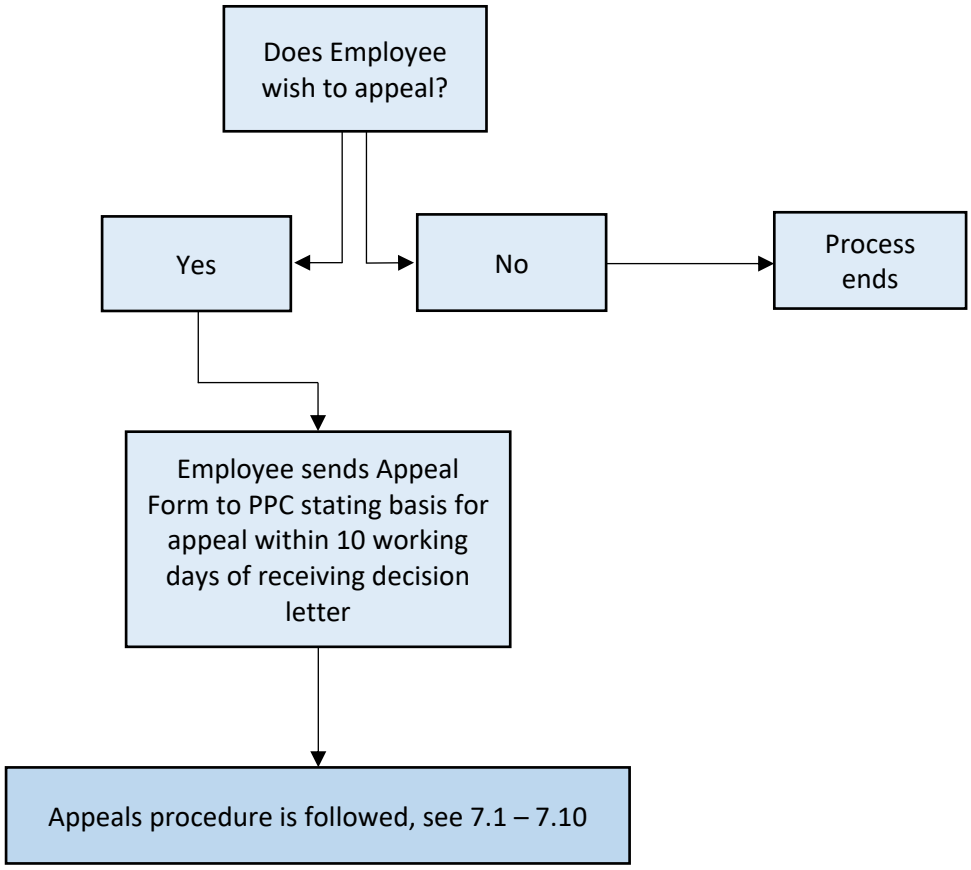
7.10 Where an appeal is unsuccessful the sanction stands. There are no further stages to this procedure.

8. Appendix 1


Improving Performance Procedure
References e.g. 2.1 relate to paragraphs of this policy document
This box-type represents optional actions
Manager can consult a PPC Rep if advice is
B2
B3
An underperformance issue needs to be addressed by the Line Manager as normal line management action has been unsuccessful
Manager holds an initial meeting with the employee
see 6.1.1 for meeting content
Outcome of meeting recorded in set of objectives with measurable outputs in Action Plan 6.2.1 and Appendix 2
Manager monitors progress against Action Plan and provides appropriate support for review period of 3 months 6.2
Line Manager holds meeting at the end of 3 months to provide feedback to the employee 6.2.2
Level of improvement noted?
Required improvement achieved 6.2.2
Little or no improvement achieved 6.2.2
Improvement sustained
Process ends
Line Manager acknowledges improvement and reminds employee of the need to sustain improvement
Improvement not sustained
B4
Line Manager and PPC set a date for a meeting with employee to discuss whether the employee requires an extension of review period. HR
Extension period for improvement needed?
Yes
No
Improvement achieved by end of extension period?
Yes
No
Move to process B5


Independent Manager and PPC set a date for the Final Review Improving Performance meeting and PPC notifies employee. See 6.4.1
Final Review Improving Performance meeting conducted by independent Manager. See 6.4.3
Independent Manager communicates the outcome to employee and Line Manager. PPC sends a copy of the decision and outcome to employee. PPC will retain a copy on the employee's personnel file. See 6.4.4
B5
Outcome 1
Downgrading / Redeployment if suitable post available
Outcome 2
Dismissal
Further issues?
See 6.4.6

Improving Performance Procedure



9. Appendix 2

Action Plan

Action Plan for:_____
(Name of employee)

Prepared by:_____
(Name of Line Manager)

Date this action plan agreed:_____

Please detail the following (use separate sheets if necessary):-

1	Where the employee's performance is falling short of the required standards and how it could improve:
2	The required standards of performance are:
3	Factors affecting employee's performance:
4	The actions that the Line Manager will take to help support the employee to improve the performance, and the timescales involved, as well as any review dates:
5	The actions that the employee will take to improve their performance, and the timescales involved, as well as any review dates:
6	The potential consequences if necessary improvement is not achieved:
7	Any formal staff development or training to support performance improvement:
8	Detail progress to date against the Action Plan (this section is to be completed after the monitoring and review meetings have taken place):

I agree that the above is a true representation of the Action Plan discussion.

Signed: _____ (Employee)

_____ (PRINT NAME)

Date: _____

Signed: _____ (Line Manager)

_____ (PRINT NAME)

Date: _____

10. Appendix 3

The role of the companion under this policy

The companion may accompany the employee as in section 6.3.1, 6.4.2 and section 7.

The companion may be a Trade Union representative or work colleague.

The role of the companion is to assist and support the employee by acting as a friend and advisor.

The companion may provide a written submission to a meeting on behalf of the employee.

The companion may put the employee's case or summarise it at the end. They may also ask questions to clarify understanding of the situation, and ask to confer with the employee outside the room with the employee's agreement.

The employee must notify PPC in advance of the meeting, who they have chosen as a companion. It is not reasonable for the employee to insist on being accompanied by a colleague whose presence would prejudice the meeting or who might have a conflict of interest.

The companion may not however, act in such a way that prevents anyone else at any meeting from explaining their case or making a contribution.

Colleagues who do not wish to accept an invitation to act as a companion are not obliged to do so.

Companions may attend meetings during working hours without loss of pay and will be given reasonable time to familiarise themselves with the matter and confer with the employee both before and after meetings.

Employees are responsible for ensuring their companions are willing to support them and attend meetings / hearings. Companions must, once they have accepted the role, ensure they do not cause unnecessary delay to the process.

Employees may not appoint a legal representative or anyone external to the University, other than a recognised TU official, to act as a companion.

11. Appendix 4

Inability to attend Improving Performance Meetings

The University is committed to completing the Improving Performance process promptly and without undue delay, so that employees are confident that issues will be dealt with in a timely manner. It expects all employees involved in the process to abide by this principle. The University therefore accepts that attendance at such meetings should normally take precedence over other commitments.

An employee who cannot attend a meeting should inform PPC, in advance whenever possible, and another date will be set. Pre-arranged annual leave periods will be respected in this process.

If an employee cannot attend a re-arranged meeting within a reasonable period of time, and without reasonable justification, the meeting will be held in their absence. A decision may be taken in the employee's absence if they fail to attend the re-arranged meeting and causes undue delay, without reasonable justification.

Employees are responsible for ensuring their companions are willing to support them and attend meetings. Companions must, once they have accepted the role, ensure they do not cause unnecessary delay to the process.

If an employee's companion cannot attend on a proposed date the employee should notify PPC, in writing, as soon as possible. The employee can suggest another date so long as it is not more than 5 working days after the date originally proposed. The University reserves the right to determine the length of an extension to this time limit in exceptional cases where it considers this necessary. However, the meeting will be held without the companion's presence if they fail to attend the re-arranged meeting and causes undue delay, without reasonable justification.

12. Appendix 5

Outcomes of the Final Review Meeting

Downgrading

In certain circumstances it may be possible to offer movement to a lower grade post if a post exists. Initially, this may be offered on a three-month trial basis, on protected terms and conditions of service, reviewed monthly, and involve, where appropriate, re-training.

On completion of the trial period the terms and conditions for the lower grade post will be those appropriate to the grade of the post. Protection of existing pay, terms and conditions will not apply after the trial period. It must be made clear to the employee that failure to perform to an acceptable standard in the new post by the end of the trial period will result in the Review Meeting being reconvened and termination of employment is likely to be the outcome.

Where the employee refuses the offer of alternative employment, dismissal will take place on the grounds of continued under-performance. This must be made clear in writing.

Redeployment

In certain circumstances it may be possible to offer alternative employment or movement to a lower grade post more suited to the employee's capabilities, if a post exists. Initially, reasonable alternative employment may be offered on a three-month trial basis, on protected terms and conditions of service, reviewed monthly, and involve, where appropriate, re-training.

On completion of the trial period the terms and conditions for the alternative employment will be those appropriate to the grade of the post. Protection of existing pay, terms and conditions will not apply after the trial period.

It must be made clear to the employee that failure to perform to an acceptable standard in the new post by the end of the trial period will result in the Review Meeting being reconvened and termination of employment is likely to be the outcome.

Where the employee refuses the offer of alternative employment, dismissal will take place on the grounds of continued under-performance. This must be made clear in writing.

Recommendation for dismissal on the grounds of sustained under-performance

If, after having exhausted both stages as specified in this policy, an employee's performance is still unsatisfactory and fails to reach the agreed standards during the review period, dismissal will normally result.

If the outcome is dismissal, the employee will be informed as soon as is reasonably practicable, and notified in writing by PPC.

The dismissal letter will include the following information:

- The reasons for dismissal
- The date on which the employment will terminate
- The right to appeal

If the dismissal is ‘with notice’, the notice period will be as stated in the employee’s contract of employment, but the University may make a payment in lieu of notice.

Sanctions issued as a result of this procedure will remain in force pending the outcome of the appeal. Where an employee appeals against the decision to dismiss, the appeals procedure as set out in section 7 of this policy must be followed.

13. Appendix 6

FINAL IMPROVING PERFORMANCE REVIEW APPEAL FORM

To be completed by the employee and sent to the Department of PPC. Please keep a copy for your records.

Please read this Policy and Procedure before completing this form.

Employee's Name:	School / Directorate:
Please indicate here what decision you are appealing against:	
Grounds for Appeal: (The time limit for logging an appeal is 10 working days from the receipt of the letter of the decision you are appealing against.) An appeal can be made on the basis that you disagree with any of the following: • Original decision was reached in a procedurally correct way • The action taken was reasonable • The sanction imposed was proportionate On which of the three points above are you appealing? If none of the above, what new evidence have you got to form the basis of your appeal? How and why is it relevant to your appeal? Please provide a detailed explanation here of the basis of your appeal.	
I provide this information in good faith. Signature:	Date:

Note to employees

Your Trade Union representative or work colleague can support you.

Improving Performance Policy and Procedure

Owner	Last Reviewed
Operations	April 2023

UNIVERSITY OF LINCOLN