



Capability policy and procedure

Lead executive	Director of Nursing Therapies Patient Partnership
Authors details	HR Service Officer

Type of document	Policy
Target audience	All CWP staff
Document purpose	To provide a framework for supporting staff if their performance is found to be below the standard. The framework will ensure that such matters are handled in a fair and consistent manner.

Approving meeting	Workforce and OD Sub Committee	Jan-17
Implementation date	January 2017	

CWP documents to be read in conjunction with	
HR3.5	Managing attendance policy
HR3.3	Trust disciplinary policy and procedure

Document change history	
What is different?	Clarification of process when health is a factor in performance and in serious cases of substandard performance.
Appendices / electronic forms	Appendices included in Toolkit
What is the impact of change?	Minimal impact

Training requirements	No - Training requirements for this policy are in accordance with the CWP Training Needs Analysis (TNA) with Learning and Development (L&D)
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Document consultation	
East	Sally Sanderson; Jane Tyrer; Kate Chapman; Karen Millard; Laura Draper; Mark Grey; Nichola Spinney; Jenny Jones; Carole Winstanley; Susan Griffiths; Linda Johnstone; Toby Biggins; Terry Unwin
Wirral	Jan Pye; Rashmi Parhee; Jose Ferran; Geraldine Swift; Joanne Hurley; Neal Fenna; Linda Friend; Iain Wells; June Thornton; Polly Nash; Jugnu Bothra; Iris Batman; Angela Davies
West	Joanne Knowles; Joy Fenna; Daniel Carlson; Dave Appleton; Colin White; Mike Caulfield; Jane Newcombe; Pauline Forrester; Carys Jones; Karen Phillips; Gwen Jones; Catherine Phillips; Dave Donal; Helen Thornley-Jones; Jean Brennan; Jan Patton; Janet Lomas; Sarah Evans; Susan Rawson; Christina Theobald; Alison Woodhouse; Dr Vikram Palanisamy
Corporate services	Abiola Allinson; Chris Sheldon; Fiona Couper; Gill Monteith; Jane Manton; Audrey Jones; Jo Watts; Jenny Gillison; Lyn Ellis; Martin Dowler; Pat Mottram; Tracey Battison; Veena Yadav; Alison Wood; Melysa Cureton; Karen Herbert; Joanna Rogerson; Jan Devine; Sally Bestwick; Amanda Miskell; Lynn Barton; Helen Pilley; Ken Edwards; Helen Davies; Jen Adams; Kath Jones, Steven Buckley

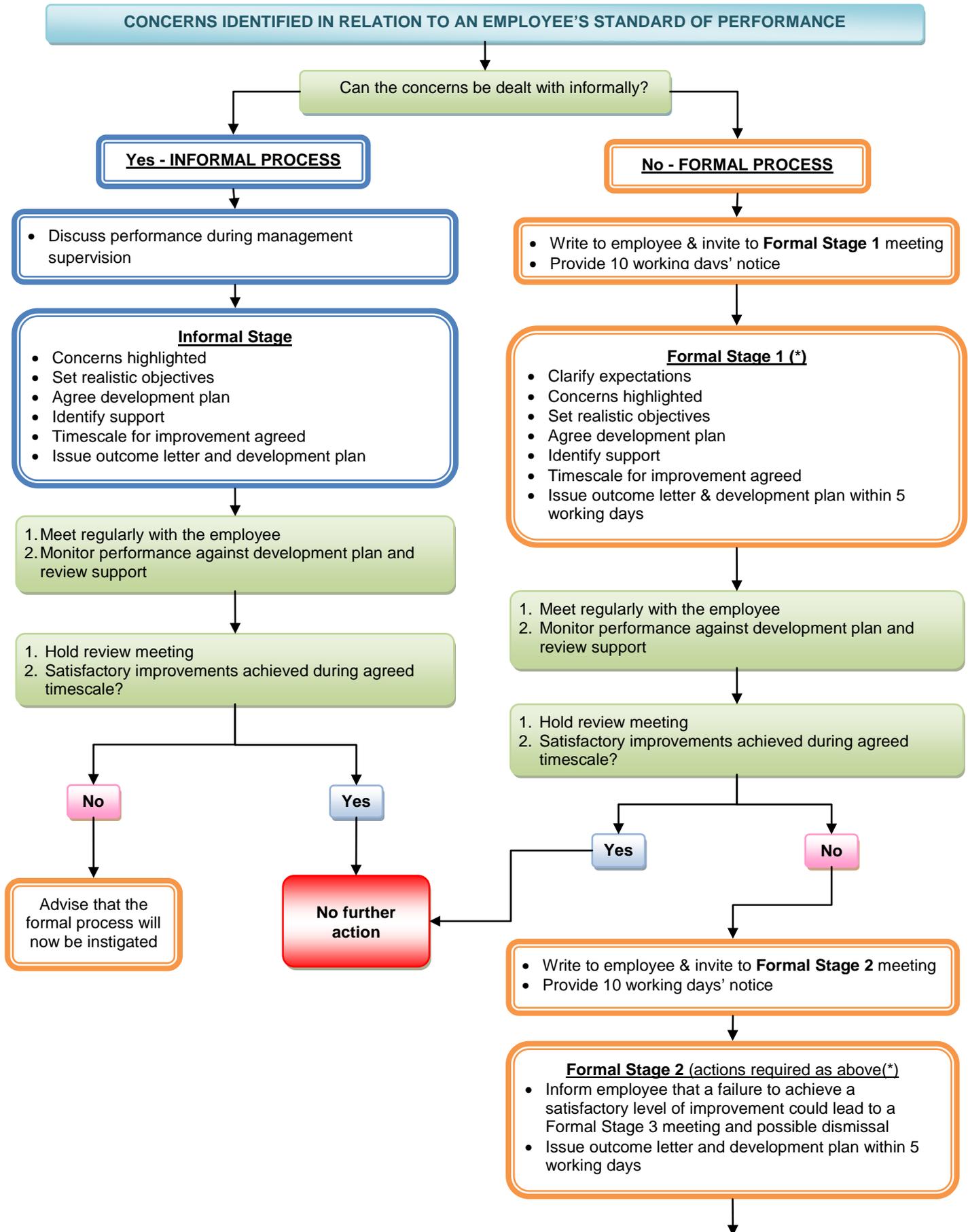
Financial resource implications	None
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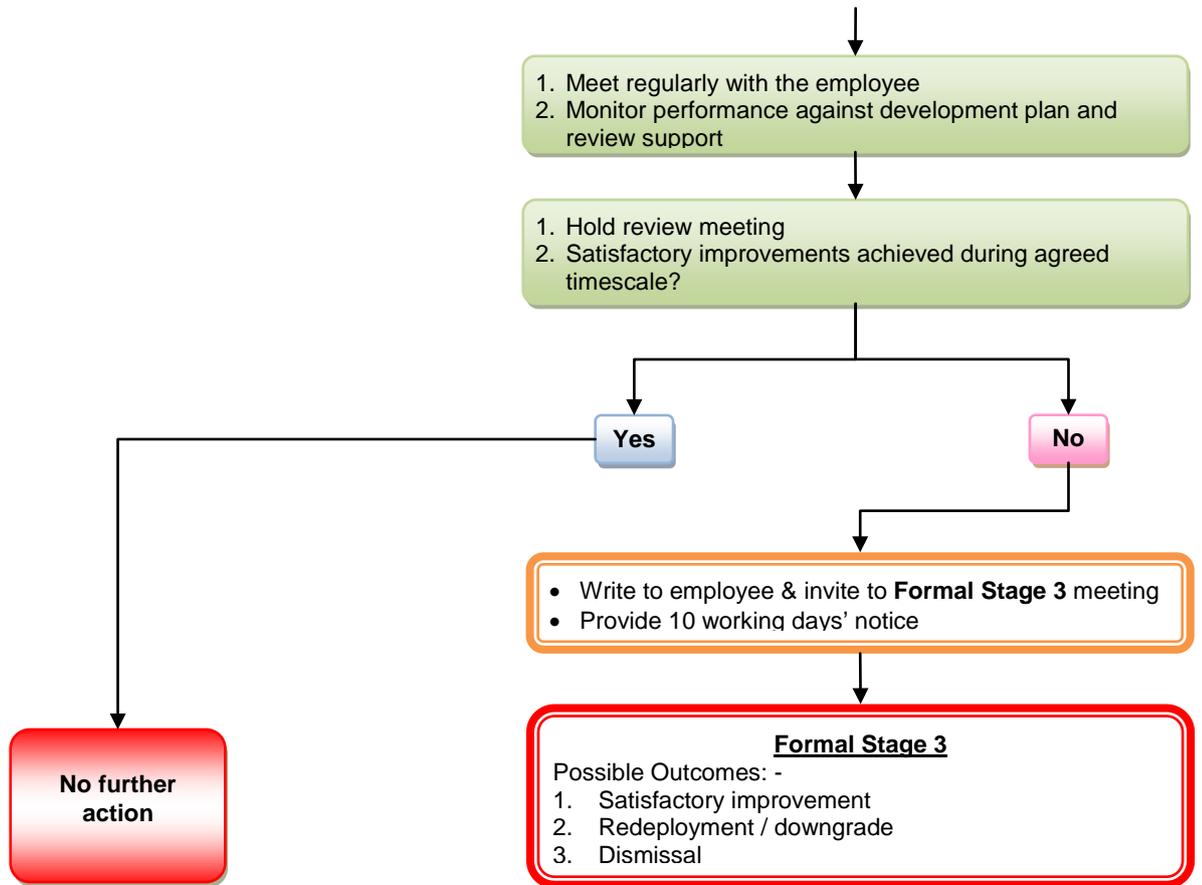
Equality Impact Assessment (EIA) - Initial assessment	Yes/No	Comments
Does this document affect one group less or more favourably than another on the basis of:		
- Race	No	
- Ethnic origins (including gypsies and travellers)	No	
- Nationality	No	
- Gender	No	
- Culture	No	
- Religion or belief	No	
- Sexual orientation including lesbian, gay and bisexual people	No	
- Age	No	
- Disability - learning disabilities, physical disability, sensory impairment and mental health problems	No	
Is there any evidence that some groups are affected differently?	No	
If you have identified potential discrimination, are there any exceptions valid, legal and/or justifiable? N/A		
Is the impact of the document likely to be negative?	No	
- If so can the impact be avoided?	N/A	
- What alternatives are there to achieving the document without the impact?	N/A	
- Can we reduce the impact by taking different action?	N/A	
Where an adverse or negative impact on equality group(s) has been identified during the initial screening process a full EIA assessment should be conducted.		
If you have identified a potential discriminatory impact of this procedural document, please refer it to the human resource department together with any suggestions as to the action required to avoid / reduce this impact. For advice in respect of answering the above questions, please contact the human resource department.		
Was a full impact assessment required?	No	
What is the level of impact?	Low	

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Quick reference flowchart for capability





1. Introduction

Cheshire and Wirral Partnership NHS Foundation Trust (CWP) invests in the skills and knowledge of its employees and values the contribution they make in enabling the Trust to provide a quality service. The primary aim of the Capability Policy and Procedure is to provide a way of supporting an employee, if their performance is found to be below the standard reasonably determined by management or professional practice expectations.

It is important that employees are aware of the standards of performance expected to enable them to make a positive contribution to the organisation's overall success. It is equally important that employees understand what will happen if they do not meet the standards expected. The capability policy and procedure provides a way of positively supporting an employee if their performance is found to be below the standard reasonably determined by management or professional practice expectations. Managing employees' performance is a continuous process.

Managers will ensure that all employees are clear about the standard of work expected and have an up to date job description and person specification it is also expected that all staff will receive regular supervision in accordance with the supervision policy and annual appraisals to support them achieve the required performance standards.

It is the policy of CWP to ensure effective arrangements exist to deal with capability issues in a fair and consistent manner, where the emphasis is to bring around corrective behavior and will help employees to undertake their work to the required standard. Every effort will be made to achieve the required standards of work whilst retaining the employee's employment status within the organisation. It is recognised that careful recruitment, an appropriate level of induction, training, performance review and support for employee development will help to minimise the risk of poor performance and that managers are integral to ensuring that this is provided.

A toolkit has been developed which contains further guidance on the capability policy and procedure which includes standard template letters and the development form. This may be accessed via the following link: [Capability Toolkit](#)

1.1 Aims of the procedure

- To have a competent workforce to meet the strategic objectives of the organisation;
- Managers have a framework and guidance to support employees improve performance when concerns arise;
- Ensure a fair and consistent approach when managing shortfalls in job performance.

1.2 Principles

- Managers must set and monitor appropriate performance standards and/or objectives for employees;
- Where jobs change significantly, managers should consider the training needs which arise and, in consultation with the post holder, devise and implement personal development or training plans to meet those needs;
- Where a shortfall in desired performance is identified by management, this should be dealt with in a positive and supportive manner - and informally wherever possible;
- An employee will have the right to be accompanied by a recognised trade union / professional body representative or workplace colleague throughout all formal stages of the capability procedure;
- An appropriate Human Resources (HR) representative will be available to advise and guide managers in the application of this policy;
- The duty to carry out reasonable adjustments in line with the equality legislation will be fully adhered to whenever appropriate;
- An employee will have the right of appeal against the decision of any formal warning.

This policy should be considered in conjunction with other policies in the following circumstances:

- Where an employee's unacceptable conduct or standards of performance are attributable to a wilful or deliberate act or omission or serious negligence in which case the ([disciplinary policy and procedure](#)) is applicable;
- Line Managers must consider that health could be an important factor in an individual's performance and must ensure that staff are supported by the appropriate process. Where ill-health is the reason for unsatisfactory work performance, the Trust ([managing attendance policy](#)) should be followed in conjunction with the Capability Procedure.

2. Policy Synopsis

This policy and procedure is designed to deal with situations where an employee falls short in some area of knowledge, skill or ability, resulting in a failure to be able to carry out the required duties to an acceptable standard.

This policy applies to all employees employed by the Trust, except Medical staff where specific arrangements apply in cases of professional conduct or competence.

3. Definition

Employment Law defines capability as 'capability assessed by reference to skills, aptitude, health or any other physical or mental quality'.

This needs to be considered in relation to the person's role and as set out in the job description.

4. Capability procedure

The capability procedure is a staged process that consists of two distinct elements:

1. Informal process which could be followed by;
2. Formal process (Stages 1, 2 and 3)

There is a flowchart outlining the stages of the process ([flowchart](#)).

4.1 Informal process

Every effort should be made to address performance issues informally as early as possible. Where a manager identifies a concern they should address this in line with the informal process guidance included in the (Toolkit).

4.2 Formal process

Where it has not been possible to resolve performance issues informally they should be addressed in line with the formal process guidance included in the (Toolkit).

The formal procedure will consist of three stages:

- Stage 1 – Written warning
- Stage 2 – Final warning
- Stage 3 – Dismissal

In the majority of cases, the employee will move through the entire procedure, stage by stage. In very serious cases of substandard performance for example impact on patient safety it may be possible to omit stages however there should be a clear robust rationale for this action and HR advice must be sought. If the matter is considered to be serious or gross misconduct then it will be investigated and managed in accordance with the Trust's Disciplinary Policy.

5. Appeals

Appeals following stage 1 and 2 may be heard by a General Manager or manager at equivalent or higher level of seniority.

Appeals following stage 3 will be heard by a Sub-Committee of the Trust Board. This will comprise 3 Directors, one of whom will be an executive director not previously involved in the individual case. The Sub-Committee will be chaired by a non executive director and be advised by a senior member of the Human Resources Department.

The standard appeals procedure will apply in accordance with the trusts [disciplinary policy and procedure](#).