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**Introduction**

As a provider of food and beverage services, Habbibi must provide a high-quality service to our customers therefore we have an ongoing responsibility to ensure that employee work performance is to a highest standard. All employees have a responsibility to achieve a satisfactory level of performance and carry out their duties to the highest standard.

This policy and procedure has been developed to assist and support line managers and supervisors with the management of the performance of employees. This includes guidance on managing performance and a procedure for dealing with issues of poor performance. It is the intention of this policy and procedure to ensure that there is a fair and consistent approach to managing performance across the organisation. This policy should be regarded as one of mutual and joint working, which enables the employee to maintain their performance or to restore their standards of performance to an acceptable level.

This procedure does not form part of any employee's contract of employment and it may be amended at any time. We may also vary any parts of this procedure, including any time limits, as appropriate in any case.

This procedure applies to all full and part-time employees who have completed their probationary period. It does not apply to workers, agency workers or self-employed contractors.

As this policy is used to deal with unsatisfactory performance. It does not apply to cases involving genuine sickness absence, proposed redundancies or misconduct. In those cases, reference should be made to the appropriate policy or procedure.

**Identification of Performance Issues**

Regular line management, contact and supervision should be used to identify and acknowledge good performance, achievement and improvements. The normal framework of line management supervision and appraisal/development planning are also the settings for discussing concerns about an individual’s level of performance at the earliest possible stage, offering transparency and a ‘no surprise’ approach.

In cases where the required improvement in performance is not achieved through normal line management, or these concerns are of significance, it will be the responsibility of the line manager to conduct informal and formal meetings under this procedure

Prior to the end of an employee’s probation period, we will conduct a final review. During this meeting, we will discuss their performance and confirm the successful completion of their probation period, or, should it be identified that there are areas of concern identified where their performance has not reached a satisfactory level, we may at our discretion opt to extend their probation period to allow for improvement in the areas of concern identified.

In the first instance, performance issues should normally be dealt with informally between an employee and their Line Manager as part of day-to-day management. Where appropriate, a note of any such informal discussions should be placed on their personnel file.

The formal procedure should be used where improvement in performance hasn’t been reached and/or sustained.

**Capability versus Conduct**

A clear distinction should be made between poor work performance which is due to conduct, and that which is due to a lack of capability i.e., due to lack of skill, knowledge, experience or aptitude. Poor performance which is due to a genuine lack of capability should be managed through this procedure.

Conduct will normally involve some degree of personal responsibility in that the individual is capable of doing the job, but the level of performance is inadequate, due to lack of motivation, attention or care. Such issues can be considered as intended negligence or misconduct and must be addressed using the Disciplinary Procedure, as the employee has the ability to perform to the required standard but is choosing not to do so.

**Confidentiality**

Our aim is to deal with capability matters sensitively and with due respect for the privacy of all involved. All employees must treat as confidential any information communicated to them in connection with a capability matter. Employees, and anyone accompanying them, must not make electronic recordings of any meetings conducted under this procedure unless consent is obtained prior to the meeting by all parties.

**The right to be accompanied**

An employee may bring a companion to any formal capability meeting or appeal meeting under this procedure. The companion may be either a trade union representative or a colleague. The employee must tell the person chairing the meeting of their chosen companion at least one day prior to the meeting.

A companion is allowed reasonable time off from duties without loss of pay but no-one is obliged to act as a companion if they do not wish to do so. If the employee’s choice of companion is unreasonable, we may ask them to choose someone else, for example:

* if in our opinion their companion may have a conflict of interest or may prejudice the meeting
* if their companion works at another site and someone reasonably suitable is available at the site at which they work
* if their companion is unavailable at the time a meeting is scheduled and will not be available for more than five working days afterwards

**Conducting Informal Discussions**

Line managers should firstly seek to resolve any performance issues informally and as early as possible, as part of normal day to day management. If not dealt with immediately, it should be within a few days of the issues being identified.

Informal discussions should:

* Explain the nature of the concerns including specific examples.
* Set out the expected standards of performance.
* Establish the likely causes of underperformance and identify any actions required by the employee or manager to aid improvement e.g., training or other sources of support.
* Set targets and timescales for improvement and review dates. Where possible these will be agreed between the employee and the manager.
* Explain the potential consequences of not achieving the required improvements in performance.

The manager should record this information, preferably on a Performance Improvement Plan (PIP), the PIP template can be requested from the HR Department or found in the online employee portal in ‘Template Letters’ section, indicating that it is informal and sent to the employee, who should acknowledge receipt.

The manager may consider a range of actions including the provision of advice and guidance, training, coaching, mentoring, work shadowing or other informal action e.g., counselling.

The manager may confirm the outcomes of any further informal discussion in writing to the employee and retain any notes of these informal discussions or meetings for reference purposes. These notes will only be used for the purposes of reviewing the standards and expectations set during the informal stage of the procedure.

Where there is satisfactory improvement, the matter will be considered to be resolved.

**Conducting Formal Meetings**

If performance does not meet acceptable standards, and informal action is not considered appropriate or has not succeeded in addressing the problem, the manager should consider whether there are grounds for undertaking formal action under this procedure. The assessment necessary will depend on the circumstances but may involve reviewing the employee's personnel file, gathering relevant documents, monitoring the employee's work and, if appropriate, interviewing the employee and witnesses confidentially regarding the employee's work.

Where there are grounds for taking formal action regarding alleged underperformance, the employee will be required to attend a capability meeting. A formal capability meeting will fall under one of the two formal meeting stages as set out below.

The employee should receive at least five working days written notice of the capability meeting. The letter inviting the employee to the meeting will outline the purpose of the meeting, the performance issues to be considered and the possible outcome if it is decided that the employee's performance has been unsatisfactory. Where there is additional relevant information provided to the employee this will be sent with the letter. The letter will also inform the employee of the date, time and place of the meeting and of the employee's right to be accompanied. The companion may be either a trade union representative or a colleague.

At least three working days prior to a formal capability meeting the employee must inform the manager conducting the meeting of the names of any nominated witnesses they wish to call, any written submissions they wish to have considered, any documentary evidence they intend to rely on at the meeting and, where requested, an explanation of the relevance of both their own and any witness evidence.

The meeting will be held by the employee's line manager or a more senior manager and will be attended by an HR representative. In the case of a Stage two meeting, it will be conducted by a Senior Manager and will be attended by a member of the HR team.

The aims of a capability meeting will include:

* Setting out the required standards that it is considered the employee has failed to meet and considering any relevant evidence.
* Giving the employee the opportunity to ask questions, present evidence, call witnesses, respond to evidence and make representations.
* Establishing the likely causes of underperformance including any reasons why measures taken so far have not led to the required improvement.
* Identifying whether there are any further measures, such as additional training or supervision, which may improve performance.
* Discussing and agreeing where possible targets for improvement and a timescale for review. Ensuring a reasonable period of time is provided for the individual to demonstrate improved performance.
* If dismissal is a possibility (stage two only), establishing whether there is any likelihood of a significant improvement being made within a reasonable timeframe and whether there is any practical alternative to dismissal.
* A meeting may be adjourned if it is necessary to gather further information or to give further consideration to matters discussed at the meeting.
* The employee will be informed in writing of the outcome of the formal capability meeting and the reasons for it within five working days.

**Formal Meeting Stages**

As outlined above, whilst managers should seek to resolve performance issues informally wherever possible, where there are grounds for taking [formal action](https://www.hr.admin.cam.ac.uk/policies-procedures/capability-policy/procedure), the employee will be required to attend a capability meeting. A formal capability meeting will fall under one of the two formal stages below.

**Formal stage one meeting**

If an employee's performance does not meet acceptable standards, and informal action is not considered appropriate or has not succeeded in addressing the problem, the employee may be required to attend a formal stage one meeting.

The Employee will be invited to a formal meeting and will have the right to be accompanied by a trade union representative or a colleague.

If as a result of the meeting and the evidence presented, the employee's performance is considered to be satisfactory and no further action is required, this will be confirmed to the employee in writing.

If as a result of the meeting and the evidence presented, the employee's performance is considered to be unsatisfactory, the manager will write to the employee, informing them of the outcome. The outcome letter will state the improvement in performance required, targets and timescales for improvement, any support to be provided and the consequence of not meeting the performance targets within the set improvement timescale. It will also set out the employee's right of appeal.

The outcome will also be retained on the employee's personnel file and will remain active for six months, after which time it will be disregarded for the purposes of the capability procedure. After the timescale set for improvement, the outcome will remain permanently on file for reference purposes, but will be disregarded for the purposes of deciding on the appropriate action or outcome of any future capability proceedings.

The manager will monitor the employee's performance during the timescale set for improvement and hold regular review meetings with the employee. A [Performance Improvement Plan](https://www.hr.admin.cam.ac.uk/policies-procedures/capability-policy/capability-guidance/performance-improvement-plan) must be used to record actions taken and progress made during this period. On completion of the period, the manager will write to the employee to inform them of the Stage 1 Review of the Performance Improvement Plan Outcome that either:

* The employee has met the performance standards set and no further action will be taken; or
* The employee has not met the performance standards set and the matter will be progressed to formal stage two; or
* Progress has been made towards meeting the standards set, but they have not been achieved fully (or other factors have been present e.g., sickness or leave) and the review period will be extended.

**Formal stage two meeting**

If the employee's performance has failed to improve sufficiently during the timescale set as detailed in the outcome letter whilst it is still live, the employee will be invited to a formal stage two meeting.

The formal stage two meeting will be conducted by a Senior manager, or nominated deputy, who will be accompanied by a member of the HR team. The employee's manager will also attend the meeting to present the details of the underperformance and any steps taken to address these.

The employee will have the right to be accompanied by a trade union representative or a colleague.

Following the meeting, if it is decided that the employee's performance is unsatisfactory, the Senior Manager, or their nominated deputy, may consider one or more of the following options, (this list is not exhaustive):

* Extend the timescale set for improvement and set a new review of the Performance Improvement Plan date (where a substantial improvement is likely).
* Consider alternatives to dismissal such as redeployment to a suitable available post within the organisation or other appropriate action short of dismissal.
* Dismiss on grounds of capability.

Any dismissal will be with full notice or payment in lieu of notice, unless the employee's employment contract terms and condition’s state otherwise.

The decision will be confirmed in writing within five working days of the meeting. The letter shall also notify the employee of their right to appeal against any sanction. In the event that the decision is taken to dismiss the employee, the letter will include the reasons for dismissal, the date that their employment will terminate and the right of appeal.

**Appeals**

If an employee feels that capability action taken against them is wrong or unjust, they should appeal in writing, stating their full grounds of appeal, to the specified point of appeal within one week of the date on which they were informed of the decision.

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, they may be reinstated or reengaged with the organisation.

We will give the employee written notice of the date, time and place of the appeal meeting. The appeal meeting may be a complete re-meeting of the matter or it may be a review of the fairness of the original decision in the light of the procedure that was followed and any new information that may have come to light. This will be at our discretion depending on the circumstances of the case. In any event the appeal will be dealt with as impartially as possible.

Where possible, the appeal meeting will be conducted impartially by another senior manager who has not been previously involved in the case. As previously stated, the employee will have the right to be accompanied at the appeal meeting.

Following the appeal meeting we may:

* uphold the original decision
* revoke the original decision; or
* substitute for a lesser sanction

We will inform the employee in writing of our final decision as soon as possible, usually within one week of the appeal meeting. Where possible we will also explain this in person.