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PERSONNEL POLICY

POLICY AND PROCEDURE FOR MANAGING POOR PERFORMANCE**1. INTRODUCTION**

- 1.1 The purpose of Fareham & Gosport Primary Care Trust is delivering improved health for local people. The commitment and effective performance of all staff is crucial in achieving this purpose.
- 1.2 The Trust is committed to sound Recruitment, Induction, Appraisals and Personal Development Planning, together with broader management tools of regular managerial, clinical and other such supervision, team briefing and clear communication. These are essential in enabling staff to:
- be effectively and quickly integrated into the Trust
 - be clear about the Trust values, strategic direction and policies
 - be clear about their roles, objectives, acceptable standards and priorities
 - have opportunity to contribute to role development, team planning and service delivery
 - identify training needs and consider learning opportunities
 - review and receive feedback on performance
 - have opportunity to review work/life balance and career aspirations
 - reflect on practice and resolve any local service delivery issues
 - be aware of new Trust developments

2. AIM & SCOPE

- 2.1 There may be occasions when a member of staff's performance at work is not satisfactory. The aim of this policy is to provide clear guidance and to ensure equitable, fair and sensitive management of staff who are unable to fulfil their full contractual duties due to poor performance.
- 2.2 Where a member of staff's poor performance is believed to arise from:
- ill health – the procedure contained in the PCT's Policy and Procedure for Managing Ill Health and Disability should be used. In cases where doubt exists concerning the cause of performance falling below the expected standard, a referral to Occupational Health should be made.
 - Misconduct or dereliction of duty – the PCT's Disciplinary Procedure should be used

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2.3 Examples of some of the issues that should be handled under this policy are where performance falls below the expected standard, as a result of circumstances including:

- A newly appointed or promoted employee
- Changes to an employee's job
- First time an element of the role has been undertaken
- An employee experiencing difficulties in home life

2.4 This policy should be read in conjunction with the following policies:

Policy & Procedure for Appraisals and Personal Development Planning, Recruitment and Selection Procedure, Induction, Policy & Procedure for Managing Ill Health and Disability, Substance Misuse, Management & Prevention of Harassment and Bullying, Domestic Abuse Awareness in; the Workplace, Disciplinary Procedure, Whistleblowing and Mental Health & Well Being at Work Policy (Occupational Health Policy folder)

3. GENERAL PRINCIPLES

3.1 The PCT will, through its managers, ensure that all members of staff clearly understand what are acceptable standards of performance in the workplace. This will commence at the time of recruitment, continue through induction and remain as part of sound management practice during a member of staff's employment with the PCT.

3.2 All staff should have an up to date job description , receive regular supervision and have an annual Appraisal and Personal Development Plan.

3.3 Where performance falls below the expected standard, employees must be given a clear indication of the gaps in the expected performance.

3.4 There will be an emphasis on encouragement and opportunity for learning and improvement in line with good employment practice. Employees will receive appropriate training, supervision, guidance and support to enable them to undertake their work to the required standard of performance.

3.5 Staff will be given appropriate time, which will be mutually agreed, to improve before formal action is taken.

3.6 All employees have the right to be accompanied by a person of their choice throughout this procedure. Where employees elect to be legally represented, they shall be responsible for any costs that they may incur.

3.7 Appropriate advice may be sought from a Personnel Manager, who must be present at all formal stages of this procedure.

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4. RESPONSIBILITIES**4.1 The Employer**

- Monitor performance issues.
- Ensure staff are treated fairly and equitably.
- Ensure that all appropriate employment legislation is complied with.
- Provide appropriate training.
- To deliver patient care and all aspects of service delivery effectively, positively and efficiently.

4.2 The Manager

- Effectively manage poor performance
- Facilitate support to employees as appropriate
- Provide an up to date job description
- Identify training needs to fulfil job role, develop the individual
- Monitor and record employee's performance
- Improve individual and team performance to meet Service needs
- Ensure an annual Appraisal and Personal Development Plan
- Ensure effective communication

4.3 The Employee

- To report to their manager as soon as possible any difficulties in managing the job role
- To identify any training needs to meet the job role
- To meet with line manager as appropriate
- Participate in annual Appraisal and Personal Development Plan

5. INFORMAL STAGE

5.1 If Performance is giving cause for concern, the manager should meet with the employee to identify the nature of the problem.

5.2 The meeting with the manager should address:

- clarity of the role using the job description
- identifying specific gaps in skills and/or performance
- identifying training needs
- support and guidance arrangements
- a realistic timeframe for monitoring and review

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This can then form a Performance Improvement Plan which should incorporate the Personal Development Plan. Review meetings between employee and manager must be held at least monthly. A Performance Improvement Plan proforma is at Appendix A, which must be used at all stages. Advice may be sought from a Personnel Manager at this stage, and must be sought before moving to a formal stage of this procedure.

5.3 At the agreed monitoring and review point the manager should meet with the employee and assess performance with the member of staff, using the Performance Improvement Plan. If the required performance has been achieved no further action is required. If the required performance has not been achieved, the manager has the option of:

- extending the informal procedure to a further period, if significant progress has been made, or
- moving to the formal stage of the procedure

6 FORMAL STAGES

6.1 First meeting

6.1.1 If the employee's performance fails to improve and no medical cause has been identified, a formal meeting should be held. Advice must be sought from a Personnel Manager, who should attend the formal meeting. The employee should be requested in writing to attend this formal meeting giving a minimum of 5 days notice. The letter should clearly state:

- it will be a formal meeting;
- the matters of concern;
- the right to be accompanied by a person of their choice;

6.1.2 At the meeting the Manager and employee should explore fully the reasons for the poor performance, clearly establish the expectations of the service and identify an action plan of support and monitoring with clear time scales. This action plan is a Performance Improvement Plan and must identify specific gaps in skills and performance and clear expectation of standards required together with a date for the next formal review meeting. Review meetings between employee and manager must be held at least monthly.

6.1.3 The employee will be issued with a first written warning stating that failure to improve performance could result in a final warning or downgrading and ultimately dismissal. This warning will be issued for a specific period of time dependant upon the timeframe of the Performance Improvement Plan, but would normally be no longer than six months. A full record of the meeting should be kept and the employee will be advised of the outcome in writing.

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6.1.4 The employee has the right to appeal against this warning to the appropriate Operational Director. Any such appeal should be made in writing within 21 days of receipt of the letter from the manager.

6.2 Second Meeting

6.2.1 At the end of the review period, or earlier if during the monitoring period the level of performance has deteriorated, a second formal meeting will be held. A Personnel Manager should attend this meeting. The employee should be requested in writing to attend this formal meeting giving a minimum of 5 days notice. The letter should contain the same elements as in 6.1.1 and clearly state the stage in the review process of the Performance Improvement Plan.

6.2.2 If performance has improved to the acceptable level identified in the Performance Improvement Plan, this should be acknowledged and the formal warning removed. If appropriate the manager will identify an action plan of ongoing monitoring and support.

6.2.3 If performance has not improved the reasons behind this should be fully explored and the Performance Improvement Plan amended if appropriate. It must contain all the elements described in 6.1.2 and establish a clear timeframe and date of the next formal meeting. Review meetings between employee and manager must be held at least monthly. The employee will be issued with a final warning stating that if performance does not improve there will be no alternative but to consider downgrading or dismissal. This warning will be issued for a specific period of time dependant upon the timeframe of the Performance Improvement Plan, but would normally be no longer than six months. A full record of the meeting should be kept and the employee will be advised of the outcome in writing.

6.2.4 The employee has the right to appeal against this warning to the appropriate Operational Director. Any such appeal should be made in writing within 21 days of receipt of the letter from the manager.

6.3 Final Meeting

6.3.1 At the end of the review period, or earlier if during the monitoring period the level of performance has deteriorated, a final formal meeting will be held. In view of the possible outcome of a final meeting, it should be chaired by a senior manager who has authority to dismiss or downgrade staff. (An Operational Director or senior manager acting on his/her behalf)

6.3.2 The employee should be requested in writing to attend this final formal meeting giving a minimum of 5 days notice. The letter should contain the same elements as in 6.1.1 and clearly state the stage in the review process of the Performance Improvement Plan. A Personnel Manager should attend this meeting.

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- 6.3.3 If performance has improved to the acceptable level identified in the Performance Improvement Plan, this should be acknowledged and the formal warning removed. If appropriate the manager will identify an action plan of ongoing monitoring and support.
- 6.3.4 If performance has not improved the employee will be downgraded or dismissed on the grounds of capability. The member of staff will be asked if there are any further factors which should be taken into consideration which might have a bearing on the decision being made. The manager will need to satisfy the test of reasonableness in all the circumstances, before determining such disciplinary action.
- 6.3.5 **Downgrading**
- The manager will identify a suitable new post, job description and base and will arrange an induction programme together with clear objectives. The employee will be required to sign the Com3 form with immediate effect.
- 6.3.6 **Dismissal**
- If downgrading is not an appropriate option, the employee will be dismissed on the grounds of capability. The employee is entitled to receive notice or pay in lieu in accordance with length of service and pay in lieu of any outstanding annual leave.
- 6.3.7 A full record of the meeting should be kept and the employee advised of the outcome in writing.
- 6.3.8 In the case of downgrading or dismissal the employee has the right to appeal against this decision; this should be made in writing within 21 days to Personnel Director, Fareham and Gosport Primary Care Trust, Fareham Reach, Unit 180, 166 Fareham Road, Gosport, PO13 0FH (Appendix 2)

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Distribution:

Policies to be distributed to all PCT Premises and Corporate Policy Holders

Policy produced by: Chrissy Harbroe-Bush, Senior Personnel Manager

Accountable Director: Personnel Director

Date Approved: 12 February 2004

Adopted by Trust Board 24 March 2004

Date of Next review: March 2005

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APPENDIX 1

PERFORMANCE IMPROVEMENT PLAN

Name _____ date from _____ to _____

Manager Review meeting date _____ Formal Review meeting date _____

Area of Performance	Expected Standard/level of performance	What support/training will be offered and when	Evaluation – How will it be assessed

Any comment/restrictions while on PIP

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APPENDIX 2

RIGHT OF APPEAL

1. Terms Under Which The Appeal May Be Logged

- 1.1 Employees of the Trust, who believe that there has been a procedural injustice or an injustice connected to the severity of nature of action taken within the procedure shall have the right to appeal as follows:

Caution or other action: Appeal to the Operation Director

Downgrading/Dismissal Appeal to 3 members of the Trust Board (to include the Personnel Director or Representative)

- 1.2 Any Appeal should be lodged in writing, by the employee, within 3 weeks of receipt of the written notice of the relevant action. Written reasons should be given explaining why the appeal is being made.
- 1.3 Notice of an appeal against a caution or other action should be addressed to the Personnel Practitioner present at the original hearing. Notice of an appeal against a down-grading/dismissal should be addressed to the Trust's Personnel Director.
- 1.4 The Hearing of the Appeal should take place within 5 weeks of the receipt of the letter of appeal. The Trust may in exceptional circumstances, be entitled to extend this period.
- 1.5 The employee shall be given at least 14 days notice of the date of the Appeal Hearing.
- 1.6 Appeals shall not be heard by any person who has been directly involved in the circumstances that indicated the need for disciplinary action. Persons involved in the circumstances that indicated the need for disciplinary action shall only be present at the Appeal Hearing as a witness, or as the management representative.
- 1.7 Employees have the right to be represented or accompanied by a person of their choice. Where appellants elect to be legally presented, they shall be responsible for any costs that they may incur.
- 1.8 Witnesses who have already given evidence at an earlier stage may be recalled to give evidence at the Appeal by the employee and/or management side.
- 1.9 The management representative shall prepare a brief for those hearing the Appeal giving the background of the case, and reasons for action being taken.

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- 1.10 Appeals to the Trust Board, in the case of down-grading or dismissal, should be heard by 3 members of the Trust Board, to include the Personnel Director or his/her representative.
- 1.11 Appeals to the Operational Director, in the case of other action, will be heard by the Divisional Operational Director or a nominated Senior Manager and 2 other persons to include a Personnel Practitioner.
- 1.12 Where the person hearing the Appeal concludes that there was any unfairness or injustice connected with the original action, he/she will have the authority to rectify this at the Appeal.
- 1.13 There is no recourse to the grievance procedure regarding action taken in regard to incapability or dissatisfaction with the outcome of an Appeal.
- 1.14 There are no further stages of appeal within the Trust.

2. Appeal Procedure

The procedure to be followed at the Appeals Hearing shall be as follows:

2.1 Evidence

- a) The manager hearing the Appeal can at any time invite either party to elucidate or amplify any statement they have made, and can ask any questions which are necessary to ascertain whether or not either party has evidence to support any part of their statement, or whether matters are within his/her knowledge.
- b) The Appeal may be adjourned by the manager hearing the Appeal in order that further evidence may be produced by either party, or for some other reason. The management representative or appellant may request an adjournment at any point.

2.2 The Management Case

- a) The management representative (who may be accompanied by a second manager with knowledge of the case) shall state the management case in the presence of the appellant and his/her representative any may call witnesses.
- b) The appellant or his/her representative shall have the opportunity to ask questions of the management representative and management witnesses.
- c) The manager hearing the Appeal shall have the opportunity to question the management representative and management witnesses.
- d) The management representative shall have the opportunity to briefly restate or conclude his/her case.

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2.3 The Appellants Case

- a) The appellant or his/her representative shall put his/her case in the presence of the management representative and may call witnesses.
- b) The management representative shall have the opportunity to ask questions of the appellant and his/her representative and appellant's witnesses.
- c) The manager hearing the appeal shall have the opportunity to ask questions of the appellant, and his/her representative and appellant's witnesses.
- d) The appellant or his/her representative shall have the opportunity to briefly restate or conclude his/her case.

2.4 Summing Up

- a) Both sides shall be given the opportunity to sum up their case if they so wish. The appellant or his/her representative shall have the right to speak last. No new matters can be introduced at this stage.
- b) Both parties will be asked to withdraw while a decision is made.

2.5 The Decision

- a) Those hearing the Appeal shall deliberate in private, only recalling both parties to clarify points of uncertainty on evidence already given. If recall is necessary, both parties shall return.
- b) Once a decision is reached, both parties shall be recalled to hear the decision. This should be confirmed in writing to both parties.