

THE DIOCESE OF SOUTHWARK

Procedure For Dealing With Poor Work Performance

1 INTRODUCTION

This Procedure provides guidance to managers considering problems raised by perceived poor work performance from a member of staff.

- 1.1 It is in the interests of everyone that any unacceptable level of work performance/lack of capability in a member of staff should be identified and, if possible, corrected as quickly and fairly as possible.
- 1.2 This Procedure is distinct from *The Disciplinary Procedure*, which deals with allegations of Misconduct, and also from the *Procedure for Dealing with Staff Health Problems*, which deals with the medical aspects of lack of capability.
- 1.3 In some cases it may be difficult to distinguish between a performance problem caused by lack of capability, negligence, misconduct or illness and it will be necessary to make a judgement on how the issue will be dealt with. Where there is doubt it is suggested that, at least initially, the matter should be treated as one of performance and handled under this Procedure. However, where illness is a possibility, then it is suggested that the *Procedure for Dealing with Staff Health Problems* might be a more appropriate starting point.
- 1.4 The Procedure has four main stages:
 - ❖ The Informal Discussion
 - ❖ The First Formal Warning Stage
 - ❖ The Final Warning Stage
 - ❖ The Dismissal Stage
- 1.5 The stages in the procedure would normally follow in sequence, the aim being to provide sufficient time between them to allow improvements in performance to take place and be sustained. There will, however, be a small number of cases where the failings of performance are so serious and the effect on the work of the Diocese and its parishes is so potentially damaging that action will be needed within shorter time periods.
- 1.6 In exceptional cases it may be necessary to omit some of the stages altogether. In such cases, it will be open to a line manager, in consultation with the Diocesan Personnel Manager, to seek earlier consideration of the employment of the member of staff concerned or to give a final (and first warning) at the outset.

2 Stage 1 - The Informal Discussion

- 2.1 The early recognition of a problem of work performance and an informal discussion with the individual in an attempt to resolve the situation may be all

that is needed, together with helpful words of advice; this forms part of the day-to-day responsibility of line managers.

- 2.2 At this stage a successful outcome is more likely if the informal discussion takes place between the employee and line manager alone. Where the employee wishes to be represented however, the line manager should also have a colleague present. The role of the workplace colleague, friend or representative at this stage would be to observe the discussion and advise the member of staff as necessary. The guidance notes in Appendix 1 should be used in such instances to help address the problem and agree a course of action.
- 2.3 The employee should be informed that the Informal Discussion does not constitute a part of the formal procedure but that a note of the meeting will be retained on file (and a copy given to the employee) for reference purposes should there be a need to proceed to action under the formal process.
- 2.4 If the matter is deemed too serious at the outset it will be open to the line manager to proceed to the formal procedure, omitting the Informal Discussion.
- 2.5 Similarly, an employee who does not accept that his/her performance is inadequate is not likely to respond constructively to persuasion to improve. It will therefore be open to the line manager to move straight into the formal process. It could also justify shortening the period that might otherwise be allowed for improvement. However, it will not in any way reduce the need to provide formal opportunities to listen to what the employee has to say about the complaint(s) and to give his/her response careful consideration.

3 Stage 2 - The First Formal Warning

This formal stage of the process will begin if: -

- ❖ at the end of the initial period of support and supervision described in Appendix 1 there is insufficient improvement in performance in line with the action plan, or
- ❖ where there is a failure to 'own the problem' (see paragraph 2.5 above and paragraph 3.4 of Appendix 1)

3.1 Preliminary Steps

- 3.1.1 The line manager should write to the member of staff expressing their (ongoing) concerns about the employee's performance and clearly indicating what stage in the procedure has been reached. The letter should give sufficient detail to enable the member of staff to fully understand those concerns and give an indication of the areas in which the employee has failed to meet expected or required standards. It should also detail any action which has already been taken.
- 3.1.3 The member of staff should be required to attend a formal interview to explain the recorded underperformance and to be involved in discussions about his/her future employment. A trade union representative, friend or

workplace colleague may attend to support the member of staff at all formal stages of this Procedure.

- 3.1.4 Any appropriate documentary evidence should be made available before the interview and time made available to study it. Similarly, any staff side documents should be presented in advance of the interview.

3.2 First Formal Interview

- 3.2.1 At the meeting, the line manager, accompanied by another manager, will remind the member of staff (and any representative present) of the purposes of the meeting and the stage of the Procedure which has been reached.
- 3.2.2 The line manager will outline current concerns about the employee's work performance and detail any steps already taken to encourage improvement. He/she will listen to any explanation offered or evidence presented by the employee.
- 3.2.3 If the evidence or explanations are accepted, the interview should be brought to an end with words of encouragement, and an appropriate letter sent to the employee.
- 3.2.4 If any explanation offered is not accepted, a First Formal Warning should be given to the employee and confirmed in writing as soon as possible after the interview.
- 3.2.5 An action plan, with reasonable time for improvement, should be drawn up and copies given to the employee and representative. For many performance problems a period of up to three months is reasonable for this purpose (but see also paragraph 2.5 of this Procedure.) The letter should clarify any targets set and the timescale for improvement. Any further support and/or training being offered should be itemised and future monitoring and supervision recorded.
- 3.2.6 The letter should make it clear to the employee the consequences of failure and that his/her job may be at risk unless satisfactory performance is achieved and sustained. It should also point out that the warning will remain on file for a period of twelve months from the date of the interview after which, if performance has improved to a satisfactory level and is sustained, it will be removed together with all associated documentation. The letter must indicate the employee's right of appeal against the decision and the process to be followed.
- 3.2.7 The employee should be asked to sign and return a copy of the letter to indicate receipt of the First Formal Warning.

3.3 Performance Monitoring

- 3.3.1 Following the issue of the First Formal Warning and the drawing up of an agreed action plan, appropriate monitoring arrangements, similar to those in Section 5 of Appendix 1, should be set in place.

3.4 Satisfactory Progress

- 3.4.1 If, after monitoring, the line manager is satisfied that progress is being made and maintained, the process may be modified or terminated in consultation with the employee. A letter will be sent to the employee explaining that satisfactory progress has been made and encouraging continued effort to maintain high standards in order that the record of these events might be removed from the file at the end of twelve months in accordance with paragraph 3.2.4.

3.5 Lack of Progress

- 3.5.1 If, after this formal monitoring period, there is insufficient improvement or progress with the action plan, or where there is continued failure to own the problem, the line manager will review the case and refer the case to the Departmental Head (unless the Departmental Head is already the immediate line manager) for action at the next level of this Procedure. The Diocesan Personnel Manager may be consulted as appropriate before such action is taken

- 3.5.2 The following two options should be considered and, where appropriate, discussed with the member of staff.
- ❖ whether the member of staff can be offered alternative employment appropriate to his/her abilities
 - ❖ whether there is a possibility of premature retirement on efficiency grounds

4 Stage 3 - The Final Warning

If there is insufficient improvement in performance after the monitoring period described in Section 3.3 and if neither of the options described in paragraph 3.5.2 is deemed appropriate or feasible, it will be necessary to arrange a second formal interview, following again the steps set out in Section 3.1.

At the interview, the following procedure will be adopted:

- 4.1 The Departmental Head, accompanied by another manager, will first explain to the member of staff (and any representative present) the stage of the Procedure which has been reached, outline the formal steps already taken to encourage improvement and indicate that, unless satisfactory performance is achieved and sustained, this formal process could lead to the termination of employment.
- 4.2 The Departmental Head will then explain to the employee as precisely as possible the current complaints about his/her performance.

- 4.3 The employee (and/or representative) may then offer any evidence, explanation or mitigating factor, presenting documentary evidence or witnesses where appropriate. The interview may be adjourned to consider any new evidence which comes to light.
- 4.4 The Departmental Head will then decide whether or not to allow a further period for improvement backed by a Final Written Warning. In exceptional cases it may be decided that the matter should immediately be referred for action under Stage 4 of this procedure (see paragraph 1.6).
- 4.5 If a Final Written Warning is issued, a further action plan should be drawn up, normally with a time scale of three months, and given to the employee, the representative and the Line Manager, progress being monitored again as outlined in Section 5 of Appendix 1. The procedure for issuing the final written warning will be the same as for the first formal written warning as outlined in paragraphs 3.2.6 and 3.2.7.
- 4.6 The options of alternative employment and premature retirement mentioned in paragraph 3.5.2 should again be actively addressed at this stage and referred to in a letter.
- 4.7 If it is decided not to offer this final opportunity to improve, or if the final written warning and monitoring do not produce the required improvement, the case should be referred to the Diocesan Personnel Manager requesting a referral to the Diocesan Secretary under Stage 4 of the Procedure.

5 Stage 4 - Dismissal Stage

The Diocese may consider dismissing an employee where it is considered at a hearing that action under this procedure has indicated, and been unable to resolve, an irreparable problem of capability.

At the hearing the employee will have the opportunity to state his/her case and make a full representation to a panel consisting of three members drawn from the Senior Management Team and/or Board of Finance (none of whom will have been involved at an earlier stage of these procedures) chaired by the Diocesan Secretary (or his/her nominee) and to be accompanied by a work colleague, friend or other adviser.

- 5.1 The Diocesan Personnel Manager should write convening a hearing with the employee giving five clear working days' notice. The employee should sign to indicate that s/he will attend the hearing.
- 5.2 The letter should indicate the stage of the Procedure which has been reached, the fact that dismissal on grounds of capability is a possible outcome of the meeting and that the employee is encouraged to be accompanied by a representative or friend who may speak on his/her behalf
- 5.3 The letter should also define the shortfall from the expected or required standards of performance for the job.

- 5.4 At the time of the hearing the Departmental Head should outline to the panel and the employee (and representative where appropriate) the history of the case, presenting the management's reason(s) for believing that the employee should be dismissed. Any appropriate documents should be made available to all parties at least 3 days before the hearing so that time is available to study them.
- 5.5 Any management witnesses should give their evidence. They may be cross-examined by the employee and/or his/her representative, the panel also having the right to ask any question at any time.
- 5.6 The employee and/or representative may present any appropriate evidence or witnesses with the Departmental Head having the right to cross-examine and the panel having the right to ask any questions.
- 5.7 Should any new evidence come to light at this stage, there should normally be an adjournment giving reasonable time to consider it unless both sides agree otherwise.
- 5.8 Having heard both the management's case and the employee's response the panel will adjourn to consider the evidence and reach a decision.
- 5.9 If the panel decides the case does not merit dismissal it will be referred back to the Departmental Head with detailed proposals for further action plan or additional training. The options of alternative work or premature retirement may again be considered at this stage.
- 5.10 If the panel decides upon dismissal, the employee will be dismissed with notice or pay in lieu of notice in accordance with the terms of the contract of employment. The employee and representative should be told of the decision and the right of appeal and the decision should be confirmed within five working days, stating the reason for the dismissal. A decision to dismiss will not take effect unless the appeal is unsuccessful or the period for presenting an appeal has elapsed without such appeal being submitted.
- 5.11 Pending an appeal, it may be appropriate to suspend the employee on full pay.

6 Appeals

Any employee dissatisfied with a decision made at any stage of the formal Procedure outlined in sections 3 to 5 has a right of appeal to a level of management not previously involved in the case.

6.1 Appeal against a Formal or Final Warning

The Appeal should be in writing, should arrive within five working days of the date of the letter confirming the warning and should be addressed to the Diocesan Personnel Manager. The appeal will be heard by the Deputy Diocesan Secretary or the Diocesan Secretary if the Deputy Diocesan Secretary has been involved at an earlier stage.

6.2 Appeal against Dismissal

- 6.2.1 The Appeal should be in writing and should arrive within five working days of the date of the letter confirming the dismissal and should be addressed to the Diocesan Personnel Manager.
- 6.2.2 The Appeal will be heard by an Appeals Committee appointed by the Chair of the Personnel Committee and drawn from members of the Personnel Committee and the Diocesan Board of Finance (none of whom will have been involved in the original decision). It will normally consist of a full re-hearing of the case. If, exceptionally, new evidence or documentation should come to light, which was not available at an earlier stage of the process, the Panel should consider it. The Panel's decision will be final and the last point of reference within the Diocese.

7 **Other Matters**

- 7.1 An employee who invokes the Grievance Procedure during the operation of this Procedure should be allowed full access to all its appropriate stages with a minimum of delay but, if the grievance is considered to be unfounded, this Procedure should be resumed.
- 7.2 An employee who goes sick during the operation of this Procedure should have his/her performance carefully monitored and documented up to the beginning of the sick leave and upon their return to duty. The reasons for the sick leave should also be carefully monitored and, if the absence is prolonged, consideration should be given to using the *Procedure for Dealing with Staff Health Problems*.

PROCEDURE FOR HANDLING THE INFORMAL DISCUSSION

Before deciding whether there is an issue about performance, the line manager should refer to paragraphs 1.2 and 1.3 of the introduction to this Procedure. This Appendix provides guidance for any line manager wishing to conduct an interview with a member of staff under Stage 1 of the Performance Procedure.

1 Is there a Problem?

The following questions focus attention on evidence for performance problems. They are offered as a guide to staff and managers when such discussions take place:

- 1.1 What are the indications (if any) that the employee is not measuring up to the requirements of the job?
- 1.2 Have there been complaints about or criticisms of the employee's work from colleagues, 'service' users (e.g. parishes), suppliers and other "customers", or members of the public?
- 1.3 Are there factual grounds to indicate poor performance such as a consistent failure to achieve measurable results?
- 1.4 Does the manager's own observation of the employee at work over a reasonable period of time indicate dissatisfaction with his/her performance?
- 1.5 Has the employee asked for help to overcome a problem, possibly as the outcome of an earlier interview about performance, personal, domestic or health problems?

The initial response to a possible performance issue is likely to be conditioned by the answers to these questions and the extent to which the deficiencies of the employee's performance are manifesting themselves.

2 Investigating the Facts

Where it is thought that the employee's performance is falling short of the required standard, the employee's line manager will clarify the precise nature of the problem by referring, for example, to:

- ❖ the Job Description for the post
- ❖ any agreed objectives or key result areas
- ❖ any measurable job results

It will also be appropriate at this stage for the immediate line manager to agree the appropriate approach with her/his own line manager.

3 Defining the Problem

The facts should be discussed with the employee in as positive a manner as possible, attempting to secure agreement of the points raised and ownership of the problems.

- 3.1 The employee should be interviewed by the line manager. Before the interview, the line manager should inform the employee that it is for her/him to decide whether or not to involve a representative or colleague as an observer. If the employee wishes to involve such an observer, the line manager should ensure that s/he in turn has a colleague present to vouch for the facts of the interview.
- 3.2 The line manager explains the purpose of the interview, namely to assist the employee in delivering the required standard of service.
- 3.3 The discussion should focus on how the employee is thought not to be performing satisfactorily, ascertaining whether the employee accepts that there is a problem and, if so, whether s/he will respond to constructive moves and suggestions to aid improvement. A firm but sympathetic attempt should be made to get behind the presenting symptoms of poor performance by asking, where appropriate, such questions as *“Is there a problem we ought to be discussing?”*, or *“What’s the real reason behind your current difficulties?”* etc
- 3.4 If the employee accepts that there is a problem, the line manager will move on to Sections 4 and 5 below, whereas, if there is no such acceptance, even after the presentation of the facts and extensive discussion, the manager should omit the informal stage and embark on the formal procedure outlined from Stage 2 of the main Procedure document.

4 Establishing Realistic Goals

Where the employee accepts that there is a problem, there should be a positive discussion about the best way to improve to the required performance level by setting goals, giving appropriate support and agreeing a programme of action.

- 4.1 The line manager should discuss and agree with the employee clear and, where possible, measurable targets for improvement with appropriate timescales.
- 4.2 Other positive methods of support which the line manager and the employee might consider at this stage could include:
 - ❖ specific job training or retraining on an in-house basis
 - ❖ mentoring support
 - ❖ professional guidance from colleagues
 - ❖ counselling, support or advice
- 4.3 An agreed action plan with time for improvement should be recorded and a copy given to the employee and colleague/representative, where appropriate (but see also Para 1.5 of the Procedure). The action plan should include specific details of any additional support being offered e.g. training course

5 Monitoring of Progress

- 5.1 Arrangements should be put in place to monitor ongoing performance with the observations being recorded by the line manager. The line manager's own views may be supplemented by feedback from others for whom the individual carries out functions e.g. committees.
- 5.2 The aim of this period should be that the employee's performance should be monitored and assessed as objectively as possible and as frequently as appropriate bearing in mind the nature of the employee's duties and the length of time it would be reasonable to allow for improvement.
- 5.3 If, after this support and supervision, the line manager is satisfied that progress is being made, this process may be modified or terminated in consultation with the person concerned. In this way, many of the difficulties may well be resolved at departmental/section level without recourse to more formal procedures.