

ROEDEAN MOIRA HOUSE MANAGEMENT OF UNACCEPTABLE STAFF PERFORMANCE POLICY 2018-19

Improving staff performance supports the positive management ethic of Roedean Moira House. This Policy and supporting procedure has been prepared with this in mind and sets out a fair and systematic approach to address shortfalls in employees' performance. This policy applies to both teaching and support staff within the School who have passed their probation for their current post.

The following guidelines give the framework of the policy:

- It is important to manage performance in a fair and consistent way to minimise the negative impact of the individual on the school life and education of the pupils and to protect the school's reputation for delivering the highest quality service and education.
- The line manager takes the lead and are responsible for managing performance with support from the School Management Team.
- The overall objective is for the line manager to assist the employee in the most appropriate way to improve their performance in their current post.
- Incidents or situations of unacceptable performance should be identified and dealt with as soon as possible, preferably in an informal way.

Unacceptable performance is:

- Performance that falls below the standards that have been identified and set or that could reasonably be expected of a member of staff. (Under the Employment Rights Act 1996 an employee's performance can be assessed by reference to skill, aptitude, ability and/or any physical or mental capacity, for example lack of skill or ability in achieving business objectives such as frequent errors in work).

All cases of poor performance should normally be dealt with informally in the first instance, making it clear to the employee that they are under the informal part of this policy.

However in some circumstances it will however be appropriate to move straight to one of the formal stages. The decision to dispense with the informal stage of the process should be made by the Principal or a member of the Senior Leadership Team. Examples of the kind of behaviour that can lead to the process starting at one of the formal stages are as follows (this is not intended to be an exhaustive list):

- Where an employee has consistently not met agreed plans or performance targets.
- Where an employee's performance has already been reviewed as part of this procedure, only for it to deteriorate again in a relatively short period of time.
- If the health and safety of pupils or staff is put at risk.
- If issues come to light that evidence that the education of the pupils is being put in jeopardy, then the procedure will automatically commence at stage three. Where this is the case, the member of the Senior Leadership Team will provide evidence to the Principal to support the decision, which will include explanations as to why the problem was not noticed at an earlier stage.

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The Informal Process - 6 weeks (NB For employees who only work in term time, the proceedings must be suspended over the school holidays)

If the line manager, taking into account all the relevant information available concerning the employee's work and liaising with a member of the Senior Leadership Team, is concerned that an employee's performance is below a satisfactory level, then they must commence informal monitoring of the employee's performance.

1. Informal counselling session and letter of concern

It is essential that the line manager ensures that the employee is aware that they are being monitored informally under this policy; this is done via an informal counselling session:

- Identifying areas of performance which are of concern
- Allowing the employee to comment, express views or offer an explanation
- Consideration should be given to any professional, personal or domestic circumstances which may be affecting the employee's performance

This is followed by a letter of concern issued to the employee - the letter needs to be passed through a member of the Senior Leadership Team for approval prior to it being issued to the employee.

2. Initial meeting:

A meeting then needs to be arranged in advance between the employee and the line manager and sufficient time set aside for the purpose. The meeting should include:

- Identifying areas of performance which are of concern
- Allowing the employee to comment, express views or offer an explanation
- Consideration should be given to any professional, personal or domestic circumstances which may be affecting the employee's performance
- Informing the employee of the 6-week-time scale with review meetings every week.
- Seeking to agree a programme of action designed to improve performance, e.g. direct supervision/support from an appropriate member of staff within the School, support and monitoring visits by an advisor (or other external support adviser) to undertake a range of support to be determined by the advisor concerned in consultation with the line manager and the employee, opportunities to observe other colleagues' practices within the School, an opportunity to visit other education establishments identified as being appropriate centres of good practice, attending training sessions, the provisions of written guidance and/or programmes of work.
- Minutes of the meeting should be taken and shared with the employee concerned.
- Oral feedback should be given as soon as possible of any kind of observation of the employee undertaking his/her work and confirmed in writing within a reasonable period of time

3. Review meetings - every week for 6 weeks

Follow up meetings should determine whether or not there has been an improvement in the areas of performance identified as causing concern and in establishing whether or not, while under monitoring, other areas of concern have emerged. The programme for monitoring and support should be reviewed and a decision made as to whether or not:

- Informal monitoring and support should be discontinued because of the achievement of satisfactory performance
- Informal monitoring and support should continue
- The formal monitoring procedure should commence - if there are still issues

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Formal Procedure - 16 weeks (or less if it has been agreed with the Principal or a member of the Senior Leadership Team that it would be more appropriate to move straight to one of the formal stages)

When the line manager considers that an employee is not performing to the appropriate standard and informal discussions have not resulted in improvement, or the matter is serious enough to miss out the informal stages, they need to discuss it with a member of the Senior Leadership Team who will confirm if formal monitoring by the line manager should commence.

Full and detailed records should be kept by the line manager at each stage of the procedure identifying the reasons for the employee's failure to meet the required standards of performance. The line manager's response and any action should be logged and dated to ensure timescales are adhered to. Minutes of all meetings should be kept and made available to the employee.

At all stages of the formal process the employee is entitled to three working days' notice of any meetings and has the right to accompaniment by a work colleague or a Union Representative.

The process has three formal stages:

- Stage One (6 weeks)
- Stage Two (6 weeks)
- Stage Three (4 weeks)

1. STAGE ONE - Initial meeting

The discussion should be full and wide-ranging in an environment of support. The employee's poor performance must be identified clearly and openly. If documentary evidence is available, it must be discussed with the employee and copies made available. The employee's explanations must be considered and explored to determine precise reasons for unacceptable performance.

The line manager needs to agree and then confirm in writing the standard of work expected, the improvement needed and the appropriate action and time scale for achieving this. Targets for both short term and long term improvements should be included. A timetable of regular monitoring sessions with the line manager will be arranged. These sessions may coincide with or replace normal or existing supervision arrangements. The concerns and arrangements should be confirmed in writing and the employee may respond in writing to any points made.

The timetable will include formal review meetings every week for 6 weeks to discuss and recognise progress, identify any further concerns not previously identified and review the support and monitoring programme.

2. STAGE ONE - Review meetings - every week for 6 weeks

If there are any further concerns these must be identified at the meetings, the support and monitoring in place should be reviewed. Any progress made should be discussed and recognised with the employee.

The outcomes of the meeting should be confirmed in writing and the employee has the right to be accompanied and has the right to respond to any points raised in writing.

In the final meeting, the line manager should consider any representations made by the employee and then in conjunction with the results of the monitoring and support, determine whether or not satisfactory progress has been made.

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If satisfactory progress has been made and the employee achieves the required improvement by the specified date, they will be informed in writing, the formal performance monitoring will cease and any on-going support through management supervision will be clarified. If however, there is a recurrence of the unacceptable performance within 12 months of ceasing the performance monitoring, then it will be appropriate to re-enter this procedure at stage two.

If satisfactory progress has not been made, then the line manager will liaise with a member of the Senior Leadership Team who will make a decision on issuing a formal warning to the employee and move to stage two of the formal process. The employee does have the right to appeal such a warning. Any appeal must be made in writing within three working days of the date on which the written warning was received. The appeal to the warning is to be heard by the Principal for such a purpose. The formal warning issued at stage one will remain live for a period of 12 months.

Alternatively, the member of the Senior Leadership Team may extend the period of monitoring and support at stage one, or return to informal monitoring and/or normal management supervision.

3. STAGE TWO - Initial meeting

Stage two will start with a meeting led by a member of the Senior Leadership Team. The results of stage one and the monitoring process will be fully discussed with the employee and their line manager and reviewed objectively. The employee will give their assessment of the progress achieved, and the support and training made available during stage one.

The member of the Senior Leadership Team will consider how far performance has improved, whether it has been sustained and the shortfall(s) against the target(s) set during stage one. A new action plan will be identified, agreed and confirmed in writing clearly outlining targets to be achieved in order to bring the level of performance up to an acceptable standard during stage two.

A timetable of regular monitoring sessions with the member of the Senior Leadership Team and the line manager should be arranged to include a further six review meetings to discuss progress and review the monitoring and support programme.

4. STAGE TWO - Review meeting - every week for 6 weeks

The same outline structure of meetings should be followed as at stage one.

If satisfactory progress has been made and the employee achieves the required improvement by the specified date, they will be informed in writing, the formal performance monitoring will cease and any on-going support through management supervision will be clarified. The formal warning issued at stage one will remain live for a period of 12 months. If there is a recurrence of the unacceptable performance within 12 months then it will be appropriate to re-enter this procedure at stage two.

After the final review meeting at stage two, if the employee is still underperforming, the member of the Senior Leadership Team will make a decision on issuing a formal warning in writing, explaining that the performance continues to be unsatisfactory and that failure to improve could lead to their dismissal. This warning will remain live for 18 months. If there is a recurrence of the unacceptable performance within 18 months, then it will be appropriate to re-enter this procedure at stage three.

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The employee has the right of appeal against this warning. Any appeal must be made in writing within 3 working days of the date on which the written warning was received. The appeal will be heard by the Principal for this purpose.

Alternatively the member of the Senior Leadership Team may extend the period of monitoring and support at stage two or return to informal monitoring and/or normal management supervision.

5. STAGE THREE - Initial meeting

A formal meeting led by the Principal should be convened to outline concerns and emphasise the seriousness of the situation. A final programme of support and monitoring should be discussed and agreed, emphasising that significant and rapid improvement in performance is required.

A final review meeting should be arranged after 4 weeks.

The format of the meeting will be as at stages one and two and the employee has the right to be accompanied.

6. STAGE THREE - Final Review Meeting

The format is the same as the review meetings at stage one and two.

The purpose of the final formal review meeting will be to determine whether or not satisfactory progress has been made. If yes, then the employee will be informed in writing and any on-going support through management supervision will be clarified. The formal warning issued at stage two will remain live for a period of 18 months. If there is a recurrence of the unacceptable performance within 18 months, then it will be appropriate to re-enter this procedure at stage three.

If the employee's performance remains unacceptable, a decision may be taken to recommend the employee's dismissal on the grounds of capability. If this is the case then the employee should be suspended (with pay) pending the dismissal hearing, which should be arranged as soon as possible following the final review meeting.

7. Dismissal Hearing due to Unacceptable Performance

Where it is decided to refer the case to a dismissal or appeal hearing, the employee will be given at least 10 full working days' notice, or a shorter period as may be mutually agreed.

At the same time (i.e. 10 working days in advance) the employee is to be supplied with the management statement of case and any supporting information, including witness statements, which will be referred to at the meeting, and the details of any witnesses (if applicable) that are to be called.

The employee is required to submit their statement of case, supporting information including witness statement, which will be referred to at the meeting, and the details of any witnesses (if applicable) that are to be called 5 full working days before the hearing.

All paperwork will therefore be circulated to both parties involved, at least 5 working days before the dismissal hearing, as no additional written documentation will be accepted as evidence on the day.

- **Attendance at the Dismissal Hearing:** The dismissal hearing will be heard by a panel of three Governors. The employee will attend the hearing and is entitled to be accompanied

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by a Trade Union representative or workplace colleague. There is no right to legal accompaniment. If the employee is unable to attend the hearing, an alternative date will be arranged, ideally within 5 working days of the first date. If they are unable to attend that hearing it will be held in their absence, but a representative will be given the opportunity to present the employee's case on their behalf.

- **Witnesses:** As details above, the identity of the witnesses must be disclosed to the other side in advance, it is preferable that witnesses who have made statements attend the hearing, although this cannot be mandatory. Each witness will join the hearing to give evidence and leave after doing so, although they may need to be recalled if necessary.
- **Role of the Panel:** The role of the panel is to listen to the evidence and to decide what action they wish to take. It is important that Governors remember that the degree of proof is on the balance of probability that there is reasonable belief that the performance of the employee is unacceptable and has not shown the required improvement to reach a satisfactory level. The employee's record with the school should be taken into consideration, including any disciplinary record. The employee's position in terms of status and length of service might be considered in mitigation and could influence the level of sanction. A consistent approach must be used.
- **The format of the meeting:** Normally the following stages would be followed at the hearing; this assumes that the Principal presents the case to the panel of Governors.
 - a. The chair of the panel hearing the case for dismissal, will make introductions and outline the process to be followed to ensure that everyone present understands what is going to happen. The meeting must be minuted and copies distributed to all parties.
 - b. The Principal presents the case in the presence of the employee and his/her representative. This includes as appropriate:
 - referring to the written documents and other written evidence
 - the calling of witnesses
 - c. The employee (or his/her representative) has the opportunity to ask questions on the evidence given by the Principal, and of any witnesses, as they are called.
 - d. The panel of Governors hearing the case have the opportunity to ask questions on the evidence given by the Principal, and of any witnesses as they are called.
 - e. The employee (or his/her representative) puts forward his/her case in the presence of the Principal. This includes as appropriate:
 - referring to the written documents and other written evidence
 - the calling of witnesses
 - f. The Principal has the opportunity to ask questions on the evidence given by the employee, and of any witnesses called, as they are called.
 - g. The panel of Governors hearing the case have the opportunity to ask questions on the evidence given by the employee, and of any witnesses called, as they are called.
 - h. The Principal sums up their case.
 - i. The employee sum up their case
 - j. The Principal and employee plus representatives and all witnesses withdraw from the hearing.
 - k. Adjournment for the panel to consider their decision, they must deliberate in private. The panel may recall the Principal or the employee to clarify uncertain points, however if recall is necessary both parties must return, even if one is not required for clarification of points.
 - l. The decision of the panel of Governors will be notified to the employee at the meeting and then confirmed in writing within 5 working days of the meeting.
The Panel need to:
 - confirm the decision made
 - the reasons why this decision was reached
 - give details of how the employee may appeal against the decision

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NB the panel can choose to adjourn at any point and can consider requests from either side to do likewise.

- **The decision of the panel:** The panel of Governors hearing the case may make one of the following decisions:
 1. determine that the employee should cease to work in his/her present post at the school and be dismissed.
 2. determine that the employee should cease to work in his/her present post in the school but offer employment in another post at the school. This might be at a lower salary level.
 3. determine that the employee should continue to undergo formal performance monitoring for a defined period of time.
 4. take no formal action.

If the dismissal is confirmed then the employee will be given contractual notice on full pay, the employee should be told not to attend work during the notice period.

- **The Appeal Process:** An employee may appeal against dismissal under this procedure, in writing within 5 working days of receipt of the written decision; the reason for the appeal must be clearly stated in the letter. A panel of two different Governors will hear the appeal. No Governors hearing the appeal shall have been involved in the decision to dismiss. Within 20 working days of receipt of the request for an appeal, arrangements will be made for the appeal to be heard. The employee must be given 10 working days notice of the date of the appeal hearing, unless a shorter period is mutually agreed. The format of the meeting is the same as are the deadlines for the sharing of paperwork and details of how witnesses may be called.
- **The Decision of the Appeal Panel:** The panel of two Governors hearing the appeal can decide to either confirm or quash the decision. If the decision is quashed the panel, should then either:
 1. determine that the employee should continue to undergo formal performance monitoring for a defined period of time
 2. take no formal action

The appeals panel will consider the matter in private and decide whether or not the case against the employee has been substantiated. If further clarification or information is required in order for a decision to be reached, both parties will be recalled or the appeal can be adjourned until the required information is provided. The employee will normally be asked to wait for the panel's decision. However if the case is a complex one, the employee will be given the opportunity to leave and called back at a later time to receive the decision (accompanied wherever possible by their representative). In any event a decision will be made within 2 working days of the conclusion of the appeal hearing. The decision of the appeals panel is final and there is no further right of appeal under this policy.



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Related policies and documents

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

- Employee Handbook
- Staff Handbook
- Code of Conduct for Employees
- Health Safety Handbook
- Boarding Staff Handbook
- National Minimum Standards for Boarding Schools
- ISI Handbook for the Inspection of Schools, Regulatory Requirements
- Teachers' Standards
- Departmental Handbook
- Complaints Policy (Parents)
- Complaints Policy (Pupils)

POLICY REVIEWED BY SCHOOL: June 2018

POLICY REVIEWED BY SCHOOL COUNCIL: June 2018

NEXT REVIEW: June 2019