

WORKFORCE & ORGANISATIONAL DEVELOPMENT

**MANAGING PERFORMANCE
POLICY AND PROCEDURE**

**POLICY NO: PHRJMPERF
(Version No. 3.0)**

Name and designation of policy author(s)	Stephanie Spencer – HR Business Advisor
Approved by (committee, group, manager)	Operational Partnership Forum
Approving signature	Minutes of meeting received
Date approved	13 th September 2016
Review date	Policy written: July 2007 Review dates: March 2009, June 2011, February 2014, August 2016 Next review: August 2019
Review type (annual, three yearly)	Three yearly
Target audience	All employees
Links to other strategies, policies, procedures	<ul style="list-style-type: none"> • Managing Performance Toolkit for Managers <ul style="list-style-type: none"> • Disciplinary Policy and Procedure • Attendance Management Policy and Procedure <ul style="list-style-type: none"> • Substance Misuse Policy • Probation Period Policy • Raising Concerns Policy • Appeals Policy and Procedure
Protective Marking Classification	Internal

Issue Date: 13 th September 2016	Page 1 of 23	Filename: PHRJMPERF	Issue No:3.0
Author: Stephanie Spencer	Authorised by: Operational Partnership Forum		Copy No:

Consultation:

	Authorised by	Date Authorised	Comments
Impact Assessment	Nikki Macfarlane – Associate Director or HR	June 2011	No requirement for a full Impact Assessment
Fraud Assessment	N/A	N/A	N/A

Circulation/Dissemination:

Date added into Q-Pulse	16 th December 2016
Date notice posted in the Team Brief	16th December 2016
Date document posted on the intranet	16th December 2016

Version History:

Date	Version	Author name and designation	Summary of main changes
June 2011	2.0	Colette Jordan – HR Business Advisor	Full review. Transfer into standard policy template. Policy titled changed from “Capability Policy” to “Managing Performance Policy & Procedure”.
February 2014	2.1	Catrin Wilde – HR Business Partner	Transfer to new template and update legislation.
August 2016	3.0	Stephanie Spencer – HR Business Advisor	Review and update of policy. Equality and diversity statement added Values and Behaviours statement added. Development of guidance document to accompany policy and procedure.

THE CLATTERBRIDGE CANCER CENTRE NHS FOUNDATION TRUST

1.0	Introduction	4
2.0	Purpose.....	4
2.3	Equality, Diversity and Human Rights Statement	5
3.0	Scope	6
4.0	Responsibilities	6
4.1	Line Managers.....	6
4.2	Employees	7
4.3	The Workforce & Organisational Development Directorate	7
4.4	Trade Union Representatives	7
5.0	Laws & Regulations	7
6.0	Definitions	8
7.0	Procedure.....	8
7.1	Establishing Performance Issues	8
7.1.1	Medical Conditions.....	10
7.1.2	Employee Assistance Programme	11
7.2	Stages.....	11
7.2.1	Informal Discussion	11
7.2.2	First Formal Meeting	13
7.2.3	Second Formal Meeting	14
7.2.4	Performance Management Hearing	15
7.3	Review Meetings	17
8.0	Appeal Process.....	17
9.0	Training	18
10.0	Audit.....	18
11.0	References	18
	Appendix A: Impact Assessment	19

1.0 Introduction

The Trust will at all times endeavour to ensure that employees achieve and maintain a high standard of performance in their work. The Trust will establish standards and monitor performance, and provide employees with appropriate training and support to meet those standards.

There will be times when employees do not perform at the levels required by the Trust. In dealing with cases of poor performance, the Trust distinguishes between those where the reason is within the employee's control, for example, negligence, lack of application or attitudinal problems, and those where the reason is outside the employee's control, for example, health, a lack of training or the changing nature of the job.

In the former case, the Trust's Disciplinary Policy and Procedure will be used, and in the latter case, the Managing Performance Policy and Procedure will be employed.

For performance issues that arise within the six month probationary period these will be dealt with under the Probationary Period Policy.

In cases of sickness absence, the procedure below should be read in conjunction with the Trust's Attendance Management Policy and Procedure.

For contingencies related to alcohol and drugs dependency, see the Trust's Substance Misuse Policy.

2.0 Purpose

The main purpose of this policy is to assist employees to achieve the high standards expected by the Trust. Managers have a responsibility to support their employees in achieving satisfactory standards of performance. Where satisfactory standards are not being achieved, this policy and procedure sets out

Issue Date: 13 th September 2016	Page 4 of 23	Filename: PHRJMPERF	Issue No:3.0
Author: Stephanie Spencer	Authorised by: Operational Partnership Forum		Copy No:

how to deal with these cases fairly and effectively, from informal intervention through to dismissal in those few cases where this might be necessary.

2.1 Trust Mission, Vision and Values and Behaviours

Our vision sets out our main ambition for the future, to guide us and inspire us in all that we do:-

‘To provide the best cancer care to the people we serve’

Our mission sets out why we exist and the contribution our organisation makes to achieve our vision:-

‘To improve health and wellbeing through compassionate, safe and effective cancer care’

And our values and behaviours set out the standards and expectations that we expect all our staff to adhere to enable our mission and vision to be achieved for the benefit of each other and the patients we serve.

- Putting people first
- Passionate about what we do
- Achieving excellence
- Looking to the future
- Always improving our care

2.3 Equality, Diversity and Human Rights Statement

The Trust is committed to an environment that promotes quality and embraces diversity in its performance as a service provider. It will adhere to legal and performance requirements and will mainstream Equality, Diversity and Human

Issue Date: 13 th September 2016	Page 5 of 23	Filename: PHRJMPERF	Issue No:3.0
Author: Stephanie Spencer	Authorised by: Operational Partnership Forum		Copy No:

Rights principles through its policies, procedures and processes. This policy should be implemented with due regard to this commitment.

3.0 Scope

This policy applies to all Employees of the Trust

4.0 Responsibilities

4.1 Line Managers

- Ensuring all employees are aware of the standard of performance expected of them.
- Ensuring employees have an up to date job description and person specification. This is to be reviewed annually as part of the personal development review process.
- Provide further information, training, coaching and support where necessary in order to help employees improve performance and develop their skills.
- Manage the performance of staff, setting and monitoring standards and maintaining appropriate records relating to staff performance.
- Adhere to the principles and processes outlined in this policy when dealing with cases of poor performance.
- Sensitively addressing issues of an employee's performance and keeping employees fully informed at all stages of the process.
- Maintaining documentation that accurately and fairly reflects the situation. Copies of all documentation should be retained on the employee's personal file.
- Managers should bring to the attention of an employee as early as possible any dissatisfaction with their performance.
- Act reasonably, so that any formal action taken is proportionate to the circumstances of the case, taking into account any mitigating factors.

Issue Date: 13 th September 2016	Page 6 of 23	Filename: PHRJMPERF	Issue No:3.0
Author: Stephanie Spencer	Authorised by: Operational Partnership Forum		Copy No:

4.2 Employees

- To be aware of the standard of performance expected in the role and ensure they are performing to the best of their ability.
- Comply with the managing performance policy and procedure, meet deadlines and attend meetings and hearings.
- To raise concerns about their ability to carry out their role and to help in identifying the reason(s) for their poor standard of work and how this can be improved.
- If an employee feels it necessary to raise genuine concern about safe and competent practice, they should do so via the Trusts Raising Concerns Policy.

4.3 The Workforce & Organisational Development Directorate

- To provide advice throughout the process.
- To ensure consistency and fairness of approach across the Trust.

4.4 Trade Union Representatives

- Assist their members in preparing their case.
- Provide support to their members throughout the process, accompanying them at meetings, hearings and appeals.

5.0 Laws & Regulations

- Employment Rights Act (1996)
- Employment Act (2008)
- Equality Act (2010)
- Data Protection Act (1998)
- Working Time Regulations 1998
- The Flexible Working (Procedural Requirements) Regulations 2002 (SI 2002/3207)
- Part-time Work Regulations 2000

Issue Date: 13 th September 2016	Page 7 of 23	Filename: PHRJMPERF	Issue No:3.0
Author: Stephanie Spencer	Authorised by: Operational Partnership Forum		Copy No:

6.0 Definitions

The Employment Relations Act (1996) states that “capability is assessed by reference to skill, aptitude, health or any other physical or mental quality”. It also indicates that “incapability must relate to the work or the kind of work that the employee was employed by the employer to do”. This must be determined in accordance with the employee’s current contractual obligations.

A distinction clearly exists between poor performance where the employee is lacking in some area of knowledge, skill or ability, resulting in failure to carry out the required duties to an acceptable standard and poor performance due to wilful refusal or disinclination to work. The former is a matter of competence and is to be dealt with under this policy and procedure whilst the latter is a matter of conduct and should be dealt with under the Trust’s Disciplinary Policy and Procedure.

This policy and procedure is to be used where there is a genuine lack of capability, rather than a deliberate failure on the part of the employee to perform to the standards of which the employee is capable.

7.0 Procedure

7.1 Establishing Performance Issues

Where a manager first determines there is an issue with an employee’s performance, as defined in section 6.0, they are required to establish whether there could be any contributory organisational or external factors to the deterioration. This may include lack of training and development, a considerable change in duties, insufficient understanding or guidance, inadequate working conditions, or issues outside of employment.

Issue Date: 13 th September 2016	Page 8 of 23	Filename: PHRJMPERF	Issue No:3.0
Author: Stephanie Spencer	Authorised by: Operational Partnership Forum		Copy No:

Consideration of the above will be particularly important if deterioration in performance is considered to be sudden and the member of staff's performance had previously caused no concern.

When dealing with substandard work performance it is important to establish clearly and precisely what contributes to an acceptable standard of performance and then describing the ways in which the employee falls below these standards.

Concerns regarding performance may arise when an employee is failing in a significant or persistent way to carry out their duties in a satisfactory manner.

This may be due to a variety of reasons, some of which could be:

- Insufficient or inappropriate experience
- Lack of adequate training or supervision
- Inability to cope with reasonable work loads
- Failure to meet output targets
- Poor relationship/conflict with colleagues
- Lack of awareness of service requirements
- Personal circumstances

Substandard work performance may be identified by:

- Measuring performance against written measurable standards
- Feedback or reports from colleagues/supervisors/line managers
- Comparison of actual performance against expected performance in terms of job description and person specification
- Comparison with professional codes of practice and performance
- Comparison with fully functioning colleagues/peer group

Issue Date: 13 th September 2016	Page 9 of 23	Filename: PHRJMPERF	Issue No:3.0
Author: Stephanie Spencer	Authorised by: Operational Partnership Forum		Copy No:

The table below includes possible action points that could be considered:

Subject	Action Points
Training Needs	<ul style="list-style-type: none"> • Is a period of refresher training required? • Does the employee need training or re-training to meet changes to their job content? • Would the employee benefit from a specialist course aimed at improving their performance or remedying deficiencies identified?
Demands of the Job/ Meeting Targets	<ul style="list-style-type: none"> • Is the employee being asked to cope with an unreasonable volume of work or extra responsibility? • Should the workload be lessened e.g. by allocating some work to other employees, recruiting staff to assist etc?
Domestic Problems	<ul style="list-style-type: none"> • Could the Trust's Balancing Work and Personal Life Policy be used to help overcome the problem? • Would a temporary adjustment of working hours/ place of work etc help?
Other Work-Related Problems	<ul style="list-style-type: none"> • Is the employee being harassed or bullied? If so, the Trusts Bullying and Harassment Policy should be followed.

7.1.1 Medical Conditions

If the employee is suffering from a medical condition which affects his or her performance, but the condition has not yet resulted in a poor attendance record, medical advice should be sought before determining a plan of action.

The individual must seek medical attention and a referral should be made to occupational health. If appropriate the line manager may consider a medical report from the employees GP (refusal to obtain or pass on a GP report, or to attend a medical examination, may lead to the Trust taking disciplinary action against the employee, up to and including dismissal). The Trust's Attendance Management Policy may be invoked at this stage; this would include cases where the employee was found to have a condition defined as a disability under the Equality Act 2010. Once it has been established that the employee is receiving appropriate medical treatment, the employee's performance will be reviewed over a reasonable time period.

7.1.2 Employee Assistance Programme

The Trust provides an Employee Assistance Programme (EAP) which can be used by all employees and members of their households. Employees are free to access this service as they choose. It may also be a request as part of actions identified when working through the Managing Performance Policy and Procedure that an individual contact the EAP provider for advice. For further information contact the HR Department.

7.2 Stages

7.2.1 Informal Discussion

When it first becomes clear to an employee's manager that the employee's performance is not at the required standard, the manager will hold an informal discussion with the employee to try to establish the reason(s) for this.

The informal discussion between the line manager and employee should focus on the particular performance issues, with the line manager giving a clear explanation of perceived weaknesses in a supportive and non-judgemental manner.

The informal discussion would normally cover the following areas:

Issue Date: 13 th September 2016	Page 11 of 23	Filename: PHRJMPERF	Issue No:3.0
Author: Stephanie Spencer	Authorised by: Operational Partnership Forum		Copy No:

- An explanation on how the employee is failing to meet the expected performance standards.
- Confirmation or otherwise that the employee has had necessary training, guidance and support to undertake the job.
- Possible contributing factors to be identified e.g. relationship with colleagues, bullying/harassment, fears, insufficient training, personal circumstances, ill health.
- Employee invited to identify possible solutions to the situation.
- Production of an action plan with timeframe for sustained improvement.
- How performance will be monitored and reviewed in agreed timescales.
- The employee to be advised of the consequences of not meeting the required standard, the consideration of moving to the formal stage of the managing performance policy.

The line manager will record the outcome of the meeting and confirm the performance action plan, targets and timeframes for improvement in a letter to the employee, see supporting document 'Managing Performance Toolkit for Managers' Appendix 1, 2 and 3.

If, at the end of the period allowed for improvement or earlier the employee has reached and maintained the required standard of performance, then no further action needs to be taken and this fact should be confirmed in writing to the employee.

If however, there is no, or insufficient improvement at the end of the review period, the formal stages should be invoked as follows.

For employees during their first year of employment, the Trust may choose to follow a shortened version of the below procedure and if performance issues arise within the first six months the Probationary Period Policy is followed.

Issue Date: 13 th September 2016	Page 12 of 23	Filename: PHRJMPERF	Issue No:3.0
Author: Stephanie Spencer	Authorised by: Operational Partnership Forum		Copy No:

The length of the review period for the informal stage of the Managing Performance process will vary depending on the circumstances. However in most instances this will be between 2 and 12 weeks. Advice can be sought from the HR Business Support team.

7.2.2 First Formal Meeting

Where an employee fails to show a significant improvement or fails to reach the required standard of performance, a formal meeting should be arranged with the employee, see supporting document 'Managing Performance Toolkit for Managers' Appendix 4. The employee has the right to be accompanied by a work colleague or trade union representative. A member of the HR Business Support team must also be present at this meeting.

During the meeting the manager should formally notify the individual that his/her performance remains unsatisfactory. Reasons for the continued unsatisfactory performance along with examples should be provided and discussed along with support measures that have been put in place. Reference should be made to the fact that there has been failure to improve despite previous informal discussions. If appropriate the action plan should be reviewed and updated where necessary.

If no satisfactory explanations are brought to light at the meeting the employee will be issued with a first written warning, which will remain in place for six months. At the meeting the arrangements for monitoring their performance, regular one to one meetings and time scales should be set out, including an explanation of the standards expected in the time period and any additional support needed in attaining a satisfactory level of performance. The employee must be informed that a lack of improvement could ultimately lead to dismissal. The outcome of this meeting will be formally recorded in a letter to the employee, see supporting document 'Managing Performance Toolkit for Managers' Appendix 5. The employee will be reminded of their right to appeal against any formal warnings issued, see section 8.0 Appeals.

Issue Date: 13 th September 2016	Page 13 of 23	Filename: PHRJMPERF	Issue No:3.0
Author: Stephanie Spencer	Authorised by: Operational Partnership Forum		Copy No:

If, at the agreed review date, the desired improvements have been achieved, the employee will be informed of this in writing and the formal process halted; however, advice should be sought from the HR Business Support team prior to ending this process. The letter will advise the employee that should the required standards of performance not be sustained for six months, then a second formal meeting may be arranged.

If however there is no, or insufficient improvement at the end of the review period, the second formal meeting should be arranged.

The length of the review period for the first formal stage of the Managing Performance process will vary depending on the circumstances. However in most instances this will be between 2 and 12 weeks. Advice can be sought from the HR Business Support team.

7.2.3 Second Formal Meeting

Failure to improve performance to a satisfactory level following the first formal meeting will result in a second formal meeting being arranged with the employee, see supporting document 'Managing Performance Toolkit for Managers' Appendix 6. The employee has the right to be accompanied by a work colleague or trade union representative. A member of the HR Business Support team must also be present at this meeting. The process will be as detailed in section 7.2.2 with the employee again being given the opportunity to answer the points made and provide any other relevant information.

It may be felt appropriate at this stage to identify further support/training, or discuss whether redeployment to an alternative work area should be considered, providing there are suitable vacancies (the appropriate recruitment process would need to be followed).

Issue Date: 13 th September 2016	Page 14 of 23	Filename: PHRJMPERF	Issue No:3.0
Author: Stephanie Spencer	Authorised by: Operational Partnership Forum		Copy No:

At the conclusion of the meeting a final written warning may be issued which will remain on file for twelve months and failure to achieve and maintain the improvement required may result in dismissal.

The outcome of this meeting will be formally recorded in a letter to the employee detailing the arrangements for monitoring their performance and timescales for improvement, see supporting document 'Managing Performance Toolkit for Managers' Appendix 7, they will also be reminded of their right to appeal against any formal warnings issued, see section 8.0 Appeals.

If, at the agreed review date, the desired improvements have been achieved, the employee will be informed of this in writing and the formal process halted however, advice should be sought from the HR Business Support team prior to ending this process. The letter will advise the employee that should the required standards of performance not be sustained for twelve months, termination of their employment may be considered at the Performance Management Hearing.

If however there is no, or insufficient improvement at the end of the review period, the performance management hearing should be arranged to consider termination of their employment contract.

The length of the review period for the second formal stage of the Managing Performance process will vary depending on the circumstances. However in most instances this will be between 2 and 12 weeks. Advice can be sought from the HR Business Support team.

7.2.4 Performance Management Hearing

Following the second formal meeting and where the desired improvement has still not been achieved, termination of employment will be considered at the performance management hearing. This hearing will be conducted by the next level manager (senior manager) who can take a decision to dismiss.

Issue Date: 13 th September 2016	Page 15 of 23	Filename: PHRJMPERF	Issue No:3.0
Author: Stephanie Spencer	Authorised by: Operational Partnership Forum		Copy No:

The employee will be given 7 calendar days notice of the hearing in writing and has the right to be accompanied by a work colleague or trade union representative, see supporting document 'Managing Performance Toolkit for Managers' Appendix 8. A member of the HR Business Support team must also be present at this hearing. If the proposed date for hearing is not suitable for the employee and/ their representative then another date will be arranged as long as it is reasonable and usually no more than ten days after the original date. This may be extended by mutual agreement. If this is re-arranged meeting is not attended by the employee, then it will proceed without them.

The line manager will present the management's case containing all the information relevant to the managing performance process which must be forwarded to the employee before the hearing. The employee will be given the opportunity to answer the points made and explain any mitigating circumstances that may be responsible for the unacceptable work performance.

At the hearing the panel will give serious consideration to:

- Redeployment to a suitable identified and funded organisation position provided there are suitable vacancies (the appropriate recruitment process would need to be followed).
- Demotion to a lower banded post
- Other suitable alternative solution/s
- Termination of employment on the grounds of performance with the appropriate notice period.

If no suitable alternative employment is available, or the employee declines redeployment or demotion there may be no alternative to dismissal on the grounds of performance.

Issue Date: 13 th September 2016	Page 16 of 23	Filename: PHRJMPERF	Issue No:3.0
Author: Stephanie Spencer	Authorised by: Operational Partnership Forum		Copy No:

The outcome of this meeting will be formally recorded in a letter to the employee, see supporting document 'Managing Performance Toolkit for Managers' Appendix 9. They will be reminded of their right to appeal against the decision, see section 8.0 Appeals.

7.3 Review Meetings

The length of the period for monitoring/training and the frequency of review meetings will need to be agreed in light of each case.

During the agreed monitoring/training period, the manager should hold review meetings as regular intervals, to see if the required improvement has been maintained and to discuss any difficulties which may be hindering progress.

During the course of such meetings, the employee will be advised of his/her progress and given the opportunity to comment. One or more of the following outcomes may result:

- Employee is now working satisfactorily and no further action is necessary.
- Some progress has been made, but a further period of monitoring/training is required and a further review date set.
- The next stage of the procedure is to be invoked, see 7.2 Stages.

At each review meeting the manager should take notes, please refer to Appendix 10 of the supporting document 'Managing Performance Toolkit for Managers'.

8.0 Appeal Process

At each of the formal stages of the managing performance process the employee has the right to appeal against a formal warning. Employees can raise an appeal by following the Trust's Appeals Policy and Procedure.

Issue Date: 13 th September 2016	Page 17 of 23	Filename: PHRJMPERF	Issue No:3.0
Author: Stephanie Spencer	Authorised by: Operational Partnership Forum		Copy No:

9.0 Training

For training requirements please refer to the Learning and Development policy for details.

10.0 Audit

The Policy will be audited every two years by the Human Resources department and a report from this including recommendations, action plans and changes implemented will be provided for the Integrated Governance Committee.

11.0 References

- Disciplinary Policy and Procedure
- Attendance Management Policy and Procedure
- Substance Abuse Policy
- Probationary Period Policy
- Raising Concerns Policy
- Recruitment Managers Handbook
- www.acas.org.uk
- Employee Assistance Programme – www.ppconline.info

Comment [SS1]: These have been moved to the guidance document.

Issue Date: 13 th September 2016	Page 18 of 23	Filename: PHRJMPERF	Issue No:3.0
Author: Stephanie Spencer	Authorised by: Operational Partnership Forum		Copy No:

Appendix A: Impact Assessment

Name of Policy
Managing Performance Policy and Procedure

What is the aim of the policy?
The main purpose of this policy is to assist employees to achieve the high standards expected by the Trust. Managers have a responsibility to support their employees in achieving satisfactory standards of performance. Where satisfactory standards are not being achieved, this policy and procedure sets out how to deal with these cases fairly and effectively, from informal intervention through to dismissal in those few cases where this might be necessary.
NOTE - Quote directly from policy documentation.

What outcomes do we want to achieve for this policy or function, & for whom?
Assist employees to achieve a high standard of performance and where satisfactory standards are not being achieved set up how to deal with these cases fairly and effectively.
NOTE - Wherever possible in responding to these questions, be specific, & name organisations, individuals &/or equality categories: Race, Gender, Age, Disability, Religious &/or Sexual Identity.

Who are the key stakeholders in the policy?

Line Managers, All Employees, Human Resources and Trade Union representatives.

Who is intended to benefit from this policy, & in what way?

The Trust (Line Managers and All Employees) in establishing the expected high standard of performance and outlining a clear procedure for supporting and dealing with those employees who are not achieving this standard.

NOTE - Wherever possible in responding to these questions, be specific & name organisations, individuals &/or equality categories

What impact will the proposal have on any services currently provided or on our staff and/or stakeholders

The policy gives clear guidance on managing the performance of employees in a fair and effective way.

How do the outcomes help or hinder other organisational objectives, policies or values?

Provides clear guidance on managing the performance of employees in a fair and effective way.

If there are associated objectives of the policy, what are they?
N/A

Who implements the policy & who is responsible for it?
The policy should be implemented by all employees including line managers and human resources. The Associate Director of HR has overall responsibility.

How relevant is the policy to each Equality category? Based on your answers above, is the policy of High, Medium, or Low relevance:

(Tick one box for each Equality category)

Category	High	Medium	Low
Age			x
Disability			x
Ethnicity (Race)			x
			x

THE CLATTERBRIDGE CANCER CENTRE NHS FOUNDATION TRUST

Gender (Sex)			
Religion or Belief			x
Sexual Orientation			x

Are there any concerns the policy could have a differential impact on the grounds of racial or ethnic origin?

No

Are there any concerns the policy could have a differential impact on the grounds of religion or belief?

No

Are there any concerns the policy could have a differential impact on the grounds of disability?

No

Are there any concerns the policy could have a differential impact on the grounds of age?

No

Are there any concerns the policy could have a differential impact on the grounds of sexual orientation?

No

Are there any concerns the policy could have a differential impact on the grounds of gender?

No

Is there enough evidence to proceed directly to a Full Impact Assessment?

Y N