

**CYNGOR SIR *POWYS* COUNTY COUNCIL**  
**Performance Capability Policy and Procedure**

Status	Revised Policy Version 4
Date of Issue	January 2014 Replaces previous version dated September, 2012
Agreed by	Portfolio Holder for HR
Review Date	December, 2014

**Cyngor Sir Powys County Council  
Performance Capability Policy and Procedure**

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## **Cyngor Sir Powys County Council Performance Capability Policy and Procedure**

### **1 Introduction**

- 1.1 The purpose of the Council's Performance Capability Policy is to provide a supportive framework to assist managers and employees, when poor standards of work performance have been identified. The aim of the procedure is to support employees to demonstrate improvement in their work performance, and to reach and maintain the standard of performance which is expected in their area of work.
- 1.2 This Policy and Procedure sit within a wider Performance Management culture within Powys County Council, focussing on continuous improvement to deliver local services to the residents of Powys.
- 1.3 Informal and formal Performance Management activities overlap with the Performance Capability Procedure, including informal supervision sessions and formal employee review and development.
- 1.4 It is critical for a Performance Management culture to be successful that employees understand the required level of performance expected of them in their role. In some posts there will be national standards of performance and in other roles it will be for the services management team to agree and communicate the standards required of the post-holder. However required levels of performance are arrived at they must be clearly conveyed to the employee in a direct and meaningful way so that the employee understands what the organisation expects of them in their role.
- 1.5 The Performance Capability Policy and Procedure would be utilised when an employee demonstrates that they are not attaining the required levels of performance required for the role in which they are contracted. This may be because they do not have the required skills, aptitude or competencies needed to perform in their role, their inability to cope with what is considered reasonable workload or being unable to meet identified standards. It may also result from an inability to prioritise work, insufficient training or difficulty in adapting to change. In all circumstances there must be facts and evidence to support concerns which clearly demonstrate that acceptable standards of performance are not being met. Other reasons for an employee demonstrating poor performance may be due to the work-related environment and/or personal circumstances that are impacting on their ability to complete the duties required of their role. All of these should be fully explored in the informal and formal procedures.
- 1.6 Instances where an employee does have the appropriate skills etc, but chooses not to apply them, or they demonstrate a negligent approach to their work, will be dealt with under the Council's Disciplinary Policy and Procedure as misconduct and not this Policy under capability. Actions that might be considered under the Disciplinary Procedures are those that fall under "misconduct". Carrying out duties to a standard that is not acceptable or demonstration of poor judgement will be considered under the Performance Capability Procedure and would therefore fall under "capability".
- 1.7 On occasion the Performance Capability Procedure and the Disciplinary Procedure can be used together. For example, an employee may have breached financial

regulations which would be considered a misconduct matter but the lack of understanding of essential procedures for the role could also be dealt with under the Performance Capability Procedure. The two processes can run concurrently but managers must be mindful of the main principles and main differences of the two procedures and ensure both are followed.

## **2.0 Principles**

2.1 The policy and procedures contained within this document are founded on the following principles:

- There are informal and formal elements of the Performance Capability Procedure. In most circumstances it will be reasonable to follow informal elements before progressing to formal action. However, there may be circumstances where an employee's performance in their role is demonstrating significant failure requiring consideration at a Performance Capability Hearing. HR Advisers are available to advise managers on the reasonableness of any proposed action in this regard;
- Managers will set realistic and achievable targets, ensuring all employees understand what is required of them in terms of their performance in their role. Any shortfall in performance needs to be pointed out to the employee at an early stage with consideration being given as to potential reasons for the shortfall i.e. skills, inadequate supervision, training, health etc;
- All employees have a contractual responsibility to achieve a satisfactory level of performance;
- A fair and structured two-way process should be applied consistently and poor performance should be addressed as quickly and reasonably as possible;
- No action should be taken under this policy without the line manager first discussing the situation with the employee and making sure they understand the policy and procedure being used;
- Where there is a shortfall in performance which does not amount to misconduct, the employee must be given every reasonable assistance to improve;
- Managers must ensure that appropriate support is given to their employees to be able reasonably to achieve improvements in agreed timescales;
- The Council cannot continue the employment of an employee in their post if an acceptable level of performance has not been achieved by the end of the formal process;
- The Council's commitment to equality of opportunity will be observed at all times during the operation of this policy and procedure. This will ensure that employees are treated fairly and without discrimination on the grounds of race, nationality, ethnic or national origins, sex, marriage and civil partnership, disability, age, sexual orientation, trade union membership or activity, political belief and religion and belief, gender reassignment and pregnancy and maternity and unrelated criminal conviction;

- Employees have the right to be accompanied by their Trade Union Representative or a work colleague during the formal process. Employees facing a disciplinary hearing or appraisal for performance issues should be allowed to be represented by a disability employment advisor or advocate. Standard rules limiting the permitted accompanier to a work colleague or trade union representative should be relaxed.
- If an employee falls sick during a period where their performance is being managed either informally or formally under this process it will be appropriate for a decision to be made to either postpone or extend the period of any performance capability review or progress the matter through to a conclusion. It may be necessary to keep any decision made under regular review depending on the reason and length of any absence. HR Advisers are available to advise managers on the reasonableness of any proposed action in this regard.

### **3 Roles and Responsibilities**

#### **3.1 Manager's Responsibilities**

- a) Set and maintain clear and fair standards of performance at work, making reference to any professional codes of practice.
- b) Deal with poor performance as it arises and inform employees when their work is falling below standard in a timely manner;
- c) Support employees to improve where their performance is below the required standard;
- d) Bring to the attention of employees the Performance Capability Policy & Procedure;
- e) Ensure a fair process is followed when the capability procedure is used in relation to any employee.

3.2 Further guidance notes for managers appear at **Appendix 1** and include some frequently asked questions.

3.3 It is the responsibility of the Line Manager to consider making reasonable adjustments to the operation of the procedure for employees with a disability, for example adjustments to timescales or specialist assistance at meetings, where appropriate.

3.4 It is essential that specific concerns are discussed with the employee as soon as possible, outlining examples and expectations. This can take place in supervision or one to one meetings as well as at a specific meeting to discuss concerns. When Managers are discussing performance capability concerns with an employee the meetings should be in private. The manager should try to establish any reasons for the performance concerns. Sometimes employees will have a dip in performance for specific reasons such as personal issues. If this can be discussed the manager may be able to offer support to the employee. These meetings need

to be a two-way dialogue and should encourage the employee to identify for themselves any barriers to acceptable performance or reasons for their failing performance.

- 3.5 Monitoring of performance should refer to any previous targets set, using recent examples. If following monitoring and discussion of performance issues there is not a sufficient improvement within a reasonable timescale i.e up to three months, a discussion with HR should take place to discuss devising a formal action plan.
- 3.6 A formal action plan should identify specific performance concerns, examples of those concerns in practice and a reasonable timeframe for improvement. Action plans should also be linked to any professional code of practice, where applicable. A template and two examples of action plans are available at **Appendix 2**. It is essential that the plan is discussed with the employee in detail to ensure they understand what is expected of them and the consequences of not satisfactorily completing the actions outlined in the plan. The employee should be given a copy of the action plan in writing. If for any reason there is a delay in being able to complete the actions identified in the plan, e.g. sickness or being asked to do other duties, this must be taken into consideration and may result in an extension of the timeframe and/or progression to further action. Detailed discussions, agreements and identification of how the concerns in the action plan will be addressed will be outlined in notes documented at each meeting to discuss the action plan.
- 3.7 The action plan should be monitored on a regular basis. It may be that during this process some of the concerns are resolved or some additional concerns need to be added. Possible amendment of the plan should be discussed with HR and any subsequent amendment recorded in a revised action plan.
- 3.8 After a period of up to three months, the manager in discussion with HR should decide if the actions identified in the action plan have been addressed and whether it would be appropriate to document the process and progress and record on the personnel file that there is no outstanding performance concern with this employee, or whether the actions identified in the action plan have not been addressed and therefore the plan needs to be extended. If an employee has shown improvement and the manager assesses that a time extension of the plan will resolve the issues, an extension should be given and recorded in a revised action plan.
- 3.9 If a decision is made however that neither of these actions are appropriate as insufficient progress had been made, and there are insufficient grounds to extend the timescale, the manager should inform the employee that they will meet with them and their representative to consider whether to award a first written warning, outlining justification for the decision. This process is covered in more detail in section 5 below.
- 3.10 The manager should consider if it would be helpful to interview another employee as a “witness” to state how the work should be carried out.
- 3.11 If, during the period the action plan is being reviewed, the employee’s performance falls to a level significantly below the standard required as outlined at the outset of the process, the manager should take advice from HR as to whether to progress to a first formal warning or Performance Capability Hearing earlier.

### **3.12 Employee's Responsibilities**

- a) Work with their manager to resolve any concerns which are identified in relation to their performance;
- b) Co-operate with any informal and formal meetings under the Performance Capability Procedure;
- c) Highlight to their manager any reasons performance may be affected to assist in identification of necessary support at an early stage and throughout the process.

3.13 Employees have a contractual responsibility to work to the required standard, achieving a level of performance required by the Council.

### **3.14 HR Services**

HR Advisers will advise managers on the informal elements and actively support managers on the formal elements in the application of this policy and procedure. This may include working with colleagues in the Organisational Development function to identify and deliver development and training activities for managers and employees, as appropriate. There may also be a need to work with Access to Work in relation to disability and reasonable adjustments identified through the Equality Act 2010

## **4.0 Performance Capability Procedure**

4.1 There is a Process Map providing a summary of the Council's Performance Capability Procedure at **Appendix 3** and a checklist for managers at **Appendix 4** to assist managers with actions required when planning and preparing to manage employees through the Performance Capability Procedure.

4.2 There are informal and formal elements of the Performance Capability Procedure. In most circumstances it will be reasonable to follow informal elements before progressing to formal action. However, there may be circumstances where an employee's performance in their role demonstrates a significant failure requiring consideration at a Performance Capability Hearing. HR Advisers are available to advise managers on the reasonableness of any proposed action in this regard.

4.3 If, during the period the action plan is being reviewed, the employee's performance falls to a level significantly below the standard required as outlined at the outset of the process, the manager should take advice from HR as to whether to progress to a first formal warning or Performance Capability Hearing earlier.

### **4.4 Informal Procedure:**

Managers need to ensure that employees are made aware of concerns over their failing performance and are given guidance and support to improve. It is essential that the manager fully records at each stage the specifics of the underperformance, the actions taken and the responses from the employee. Employees need to be aware that failure to meet actions/targets may lead to a formal Performance Capability Hearing.

- 4.5 Conversations about performance, support and timescales need to be fully recorded as they may be used at a later stage in the process. It is important that the employee is given the opportunity to explain any reasons for poor performance e.g. ill-health, personal issues or work related matters.
- 4.6 Managers should evidence poor performance with examples direct from the employee's workload. Sometimes the concerns will be across a range of duties i.e. poor case recording or inability to meet targets within reasonable timescales.
- 4.7 Once the manager has raised their concerns with the employee and given a reasonable time to improve performance, if there is improvement deemed significant enough to consider the employee does not need to continue to be managed through the Performance Capability Process this will be communicated to the employee, documented and recorded on the personnel file. If however, there is no significant improvement the manager, following discussion with HR, needs to decide if the matter should progress to the formal stage of the procedure.

#### **4.8 Formal Action:**

If the matter needs to progress to formal action, the manager and HR will need to agree an outline action plan, which is normally reviewed over a three month period.

- 4.9 The manager will call a meeting with the employee and their representative to discuss the actions required in the plan in detail, to ensure that the employee understands what the concerns are, what is expected of them and what they need to achieve to demonstrate a satisfactory improvement and for both parties to agree the final action plan is reasonable and achievable. Any support or training that the employee is required to undertake to meet the necessary improvements should also be agreed at this meeting. Where an employee faces a disciplinary action for poor performance, undiagnosed (and undisclosed) dyslexic difficulties should always be considered as a possible contributory factor.
- 4.10 The plan should be monitored by the manager and discussed in a formal review meeting regularly (i.e. no less than monthly) with the employee and their representative. If there are concerns which have been successfully addressed by the employee they should be removed from the action plan, likewise if there are new issues they must be added to the action plan. All formal review meetings should be recorded in detail, including relevant discussions and outcomes agreed, and a copy provided to the employee. The review meeting may result in a revision of the initial plan with updated current targets. When reviewing performance Managers need to be specific about each part of the action plan and explain if they think the employee has improved, has remained the same or has failed to improve to a reasonable standard, considered for each area of concern identified. At the review meeting if there is improvement deemed significant enough to consider the employee does not need to continue to be managed through the Performance Capability Process, this will be communicated to the employee, documented and recorded on the personnel file.
- 4.11 Managers need to ensure that realistic timescales for action plans are set in order that actions can reasonably be achieved, including meeting the requirement for any training or actions which require input from other employees.

- 4.12 After the agreed period e.g. up to three months, there needs to be an assessment of whether the plan has been successfully completed, needs an extension or the matter should be progressed to formal action.
- 4.13 If a decision is made to progress the matter formally advice should be considered from HR as to whether it is appropriate to issue a first written warning to the employee or to progress for consideration at a Performance Capability Hearing.
- 4.14 If a decision is made to progress to consideration of a first written warning a first formal meeting with the individual and representative from HR will be arranged by the manager (Trade Union or work colleague support is also appropriate). This meeting should provide an opportunity for a full review of evidence from action plan review meetings, including any response from the employee. If, following an adjournment of the meeting and a discussion taking place between the manager and HR, it is felt insufficient progress has been made or that the employee has not been able to improve their performance to the required standard identified **then a first written warning may be issued**. This warning is based on the employee's level of performance being unacceptable and is therefore classed as performance capability as the employee is not meeting their obligation to perform to a satisfactory level. Recommendations for further improvement should be outlined and set out in a revised action plan and a further review period should be set by the manager at this meeting. It should be made clear to the employee that should performance fail to improve during any further period of review a Performance Capability hearing may be required. A letter detailing the considerations and outcome of this meeting will be sent to the employee within 5 working days of the meeting and held on their personnel file, with the warning standing for a period of 12 months.
- 4.15 Employees have the right of appeal against the first written warning by writing, to their Head of Service within 10 working days of the meeting.
- 4.16 If, following an adjournment of the meeting and a discussion taking place between the manager and HR, it is felt sufficient progress has been made or that the employee has been able to improve their performance to the required standard identified then a decision will be made not to issue a first written warning. Any recommendations for further improvement arising from considerations should be outlined and set out in a revised action plan and a further review period should be set by the manager at this meeting. It should be made clear to the employee that should performance fail to improve during any further period of review the matter may be referred back to first formal meeting stage or, depending on the level of standards being attained, it may be referred to a Performance Capability Hearing. A letter detailing the considerations and outcome of this meeting will be sent to the employee within 5 working days of the meeting and held on their personnel file.

## **5 The Performance Capability Hearing**

- 5.1 The purpose of such a hearing is to establish the facts, decide if performance capability has fallen below an acceptable standard, to establish if there has been a failure to comply with any action plans and any reasonable reasons for that failure, and to arrive at a decision on what capability sanction to impose, if any. A process map at **Appendix 5** outlines the procedure for the Performance Capability Hearing.

- 5.2 The Performance Capability Hearing will be chaired by a Senior Manager, supported in their decision-making by a HR Adviser. The Line manager, or manager nominated to manage the performance capability in place of the line manager, will present the case. In some instances, neither the line manager nor the nominated manager may be available to present the case in which event the case may be presented by an HR Adviser. The line manager will not be involved in any way with the decision making process or outcomes of the hearing
- 5.3 The Performance Capability Hearing offers an opportunity for an independent assessment of the reasons for the poor performance and gives the employee an opportunity to set out any mitigation, to challenge evidence, to question and to be questioned in respect of the specific capability concerns.
- 5.4 The format of the hearing is as follows:
- Introductions by the Chair and confirmation for the reason for the hearing;
  - Presentation from the management side of performance capability concerns and action taken to date, including evidence from any witnesses and questioning by the employee and the Panel;
  - The employee response, including evidence from any witnesses and cross-examination by management and the Panel;
  - Summing up from the manager;
  - Summing up from the employee;
  - Adjournment for Panel to make a decision (Including consideration of mitigating and aggravating factors);
  - Reconvene to receive the Panel's decision or to hear that the decision will be notified to the employee in writing
- 5.5 The manager may want to consider calling a "witness" to show how the post should be carried out and to provide a comparison.
- 5.6 The manager needs to compile a fully paginated hearing pack with copies of all relevant supervision notes, action plans and notes of meetings. The employee must receive the Hearing pack no later than 15 working days in advance of the Hearing.
- 5.7 The employee is able to provide any relevant information they wish to be considered at the hearing, which must be forwarded to HR no later than five working days prior to the hearing. Should the employee wish to call witnesses they can do so. HR must be notified of the names of the witnesses and receive written statements, signed and dated, from each of the witnesses no later than five working days prior to the hearing.
- 5.8 The possible outcomes of the Performance Capability Hearing are as follows:
- The employee's level of performance is acceptable and there is no case to answer;
  - The employee's level of performance is not acceptable. If the Panel are satisfied that the employee has been given every opportunity and support to improve their performance, but the standard is still not being achieved, they will agree a sanction of one of the following :-

First Written Warning;  
Final Written Warning;  
Dismissal with notice;  
Summary Dismissal (without notice).

- 5.9 A dismissal by reason of performance capability will normally be considered fair where the employer has:
- Set reasonable standards of performance;
  - Made the required standards clear to the employee;
  - Warned of the consequence of failing to meet the required standards;
  - Given support & training, where applicable;
  - Given reasonable time for improvement;
- 5.10 Where a written warning is given this is usually accompanied by recommendations and further improvements required to be agreed by the manager and employee, recorded in a revised action plan. These will include a focus on further targets and how they should be monitored. Recommendations may also include a statement from the panel that should the employee fail to make necessary improvements in the timeline identified they will be brought before a new panel for penalties to be considered up to and including dismissal.
- 5.11 All outcomes and sanctions will be confirmed in writing within ten working days of the Hearing.

#### **5.12 Appeals:**

An employee is entitled to appeal against a formal sanction awarded through the Performance Capability Hearing. A written appeal must be received by the Head of HR within ten working days of receipt of the outcome letter for an appeal to be accepted. The letter must include the employee's grounds for appeal.

- 5.13 Appeals against sanctions up to and including a final written warning will be heard by a Senior Manager, supported in their decision-making by a HR Adviser.
- 5.14 Appeals against dismissal will be heard by Members of the County Council who sit as the Employment & Appeals Committee.
- 5.15 The Appeal Panel will either:-
1. Review the outcome of the Capability Hearing based on the grounds of the appeal as set out by the employee; or
  2. Consider the appeal as a re-hearing. This option will normally only be utilised where there are significant concerns about the previous Performance Capability Hearing procedure.

**Performance Capability - Guidance for Managers:  
Understanding the Performance Capability Process**

**The Performance Capability Process should only be used when employees have been spoken to in supervision or during the appraisal process about their performance and given the opportunity to improve. If this informal process has been unsuccessful and has not resulted in a sufficient improvement then the Performance Capability Process should be utilised.**

This guidance should be read in conjunction with the process map (Appendix 3) for the Performance Capability Policy and Procedure.

**What is the purpose of the policy?**

The purpose of the Council's Capability Policy and Procedure is to provide a supportive framework to assist managers when a shortfall in performance has been identified with an employee. The aim is to support employees to improve, reach and maintain the standard of performance which is expected in their area of work.

As a manager you have a responsibility to ensure all your employees, given the necessary training and support, are able to perform in their job to a satisfactory standard. However, on occasions, due to a lack of skill, aptitude, not possessing the necessary competencies, or some other reason some employees may not be able to perform to an acceptable standard.

In these situations it is important that the Performance Capability Procedure is utilised. It provides a framework you as a manager to manage the performance of an employee, ensuring that they receive any additional support they may require to acquire the necessary skills etc. to assist them in improving, reaching and maintaining the necessary standard of performance expected of them.

If an employee is not able to demonstrate an improvement in their performance through informal support the Performance Capability procedure contains a formal process for the formal action that will be taken up to and including dismissal.

Managers should seek guidance from HR and/ or Occupational Health on making reasonable adjustments for employees where reduced performance may be linked to a disability.

**Who is responsible for applying the policy?**

In most cases the Line Manager will be responsible for monitoring the performance of an employee that reports to them. If the immediate Line Manager cannot undertake responsibility for monitoring and reviewing their employee's performance (e.g. due to absence), their manager will nominate an appropriate manager to undertake the meetings.

## **How should I initially tackle performance issues?**

As a Line Manager you should discuss any issues regarding performance with your employees, as they arise. This is a key part of a manager's role and should form part of your normal day to day management of people. If a pattern of unsatisfactory performance arises you should use the first part of the Capability Procedure and raise the issue in supervision. It is very important that employees understand what your expectations are of them, so that they can improve their performance to an acceptable level.

## **What should be discussed when poor performance is first discussed in supervision?**

As a manager you will need to refer to performance concerns using recent and specific examples of the employee's work, explaining the reasons why you have those concerns and asking the employee to explain why there may be a shortfall. An example might be that you may have an issue with the quality of the assessments process a Social Worker is carrying out, or the manner in which they are managing specific cases. You should ask the employee for their views and give them an opportunity to explain why their work has not met the required standard.

You must outline to the employee the improvements which need to be made and this may include the meeting of specific targets. You should also discuss the support which will be made available to them. This may include additional supervision, learning and development activities, work shadowing and mentoring or making reasonable adjustments.

You may find that employees have other matters, i.e. personal / domestic issues that are impacting temporarily upon their work. If this is the case you should discuss possible ways in which the organisation can support the employee, e.g. temporary change to their hours.

## **When might an employee be subject to the Disciplinary Procedure rather than the Capability Procedure?**

Actions that might be considered under the Disciplinary Procedure are those that fall under the description of 'misconduct', such as failing to follow a reasonable management instruction or negligence.

Carrying out duties to a standard that is not acceptable or demonstration of poor judgement are matters that would be considered under the Performance Capability Procedure and would therefore fall under the description of 'capability'

It can sometimes be difficult to distinguish at the outset whether a complaint should be addressed through the Performance Capability or Disciplinary Policy and it may be that you start a disciplinary process but find that the issue is actually one of capability. It is possible that both procedures can be followed together. It is essential however that the employee understands which concerns are to be dealt with under which procedure.

## **At what point should formal Performance Capability action be considered?**

Formal action would only normally be considered when informal action does not result in improvements, despite the necessary support, training and timescales or reasonable adjustments being put in place.

Formal action might be considered at an earlier stage however, when targets are consistently not being met as identified in the informal stages.

**Are there any circumstances when you might move straight to the formal stage of the Performance Capability Procedure?**

The informal part of the Performance Capability Procedure would always normally be followed in the first instance, unless the situation is one where through the employee's lack of capability, a serious error in carrying out their duties or a serious failing in judgement has occurred or is likely to occur e.g. the health and safety of other employees or service users is brought into significant jeopardy by the employee. In these situations consideration will be given to commencing immediately with the formal stage of the procedure.

**What is the First Formal Warning process and how does this differ from a Performance Capability Hearing?**

This process is fairly new to the County Council. What the First Formal Warning process does is allow the manager to progress Performance Capability concerns to a first written warning stage without having to go through a full Hearing process. This keeps things at a low enough level to hopefully support the employee to improve in the future and also enables the process to happen more quickly and less formally than in a full Hearing.

At a meeting there will still be a consideration of all the evidence in managing the performance to-date, the employee will still have an opportunity to respond to the concerns and there will still be an outcome delivered but there will be no formal pack of evidence or separate hearing panel.

**When does the employee have a right to be represented?**

If, after following the informal stage of the Performance Capability Procedure it is necessary to follow the formal stage, the employee will have the right to be represented at any meetings and any subsequent Performance Capability Hearings if required, by their Trade Union Representative or a work colleague.

**Other Factors to consider**

**What happens if an employee is absent during the monitoring stages of the Performance Capability policy?**

If an employee is absent due to sickness during any of the review periods, dependent on the reason for their absence and the duration, you may need to consider referring the employee to Occupational Health for further advice and support (only where you require medical input to manage their absence). If their sickness becomes longer term, the review period may be extended or postponed to enable the employee to continue with the plan upon their return to work. Where this is felt to be reasonable it is important when the employee returns to work that there is a meeting to clarify with them where they are up to in the process and how it will be managed ongoing. At this meeting details that will need to be covered are those such as communicating and reviewing the targets and timescales set.

If an employee is absent for a reason linked to the Performance Capability process or for a longer period of time it may be necessary for a determination to be made whether to progress the current process through to a conclusion, both to assist the employee to achieve closure in the process and to enable the service to demonstrate that any necessary improvements or failure to improve are progressed.

**Is the employee able to look for alternative work whilst their performance is being monitored?**

If an employee is being taken through the Performance Capability Procedure and wishes to seek alternative work with the County Council, as manager you will need to discuss with them whether this is a suitable way forward. For example, they may decide to request a demotion or move to another role as they accept they cannot perform to a satisfactory level in their substantive role. You would need to discuss this request with HR. However, should you and the employee agree they should seek alternative opportunities with the County Council, the Performance Capability Procedure will need to continue to be applied. This is because if the employee cannot find an alternative role in a reasonable timescale and they continue to fail to carry out their substantive role to a satisfactory standard there may still be a need to consider taking formal action up to and including dismissal.

Alternatively, if an employee asks you about an alternative role they are seeking from within the County Council you might advise them whether any internal reference would mention the action being taken currently. This may depend on the level of action currently being progressed and whether the new role is similar in responsibilities to that being applied for. Advice from HR should be sought when discussing references in these situations.

**Action Plan for Performance Capability**

Employee name: ..... Pay No: ..... Dept. ....

Line managers / monitoring managers name: ..... .....

Date Plan agreed: ..... Review Dates: .....

Areas of Concern	Aim	Actions	Evidence	Unmet Needs	Timescale	Comments

1) This is an example of a Social Worker's action plan, linked to the Care Council Code of Practice

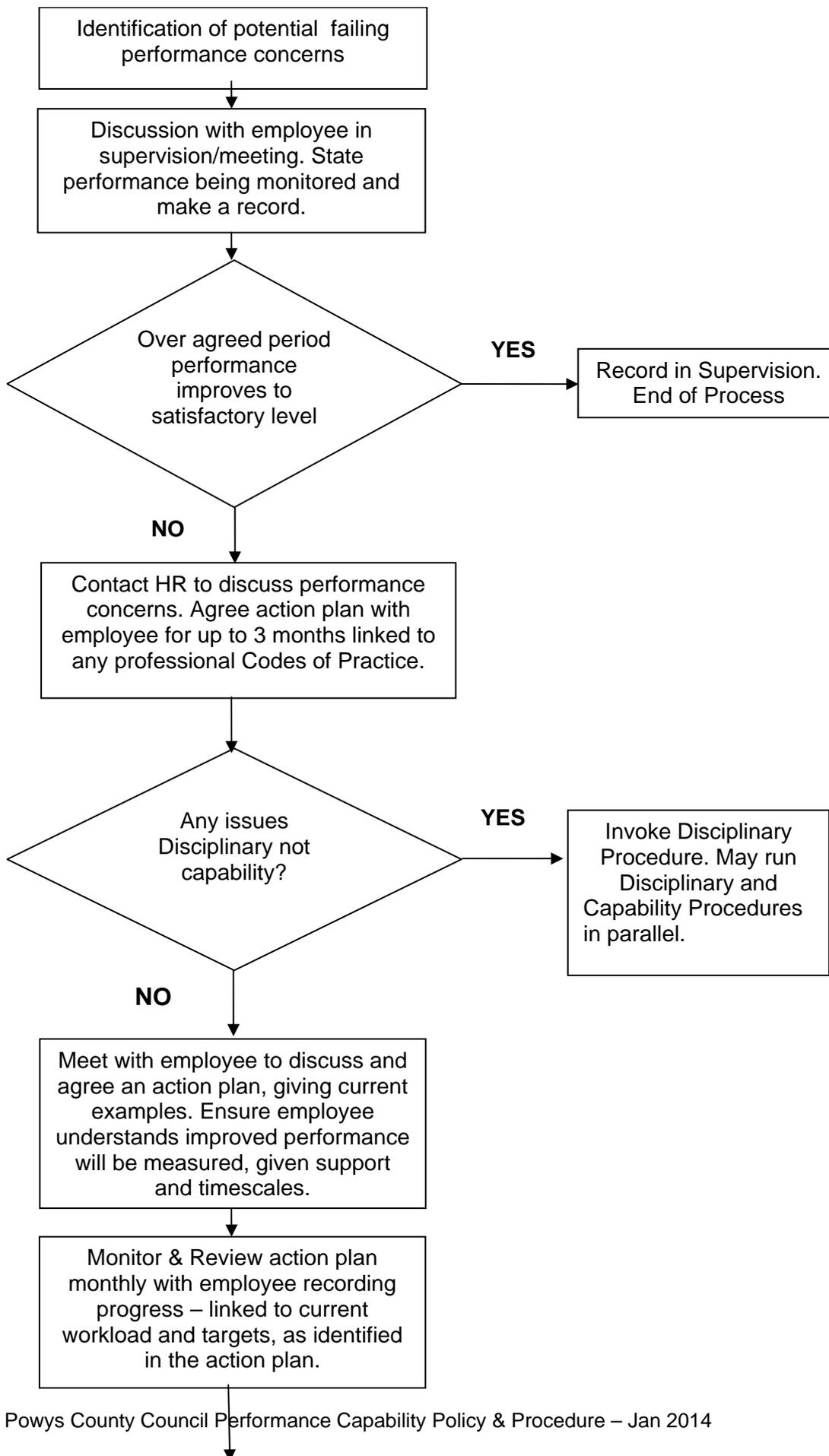
Areas of Concern	Aim	Actions	Evidence	Unmet Needs	Timescale	Comments
1. Care Council – Unit Three  Assess needs and options to recommend a course of action.	To work within the policies and procedures of the Authority.	Undertaking assessments within appropriate timescales	Completed assessments entered on Draig and notified to Team Manager.	Unified Assessment – IA.  Carers' Assessment – Case Examples	Outstanding assessments to be completed by 9 <sup>th</sup> August.  New assessments within agreed timeframe (8 weeks).	
2. Care Council – Unit 14.1  Manage and prioritise your workload within organisation policies and priorities.	To ensure that service users are receiving the appropriate input to meet with needs.	To regularly contact service users on caseload.	Case Notes Supervision		Monitored over three months.  From (date) to (date).	
3. Care Council – 16.1	To evidence the work and ensure colleagues	Record case notes on a regular	Case Notes on Draig		Record any outstanding contacts by (date)	

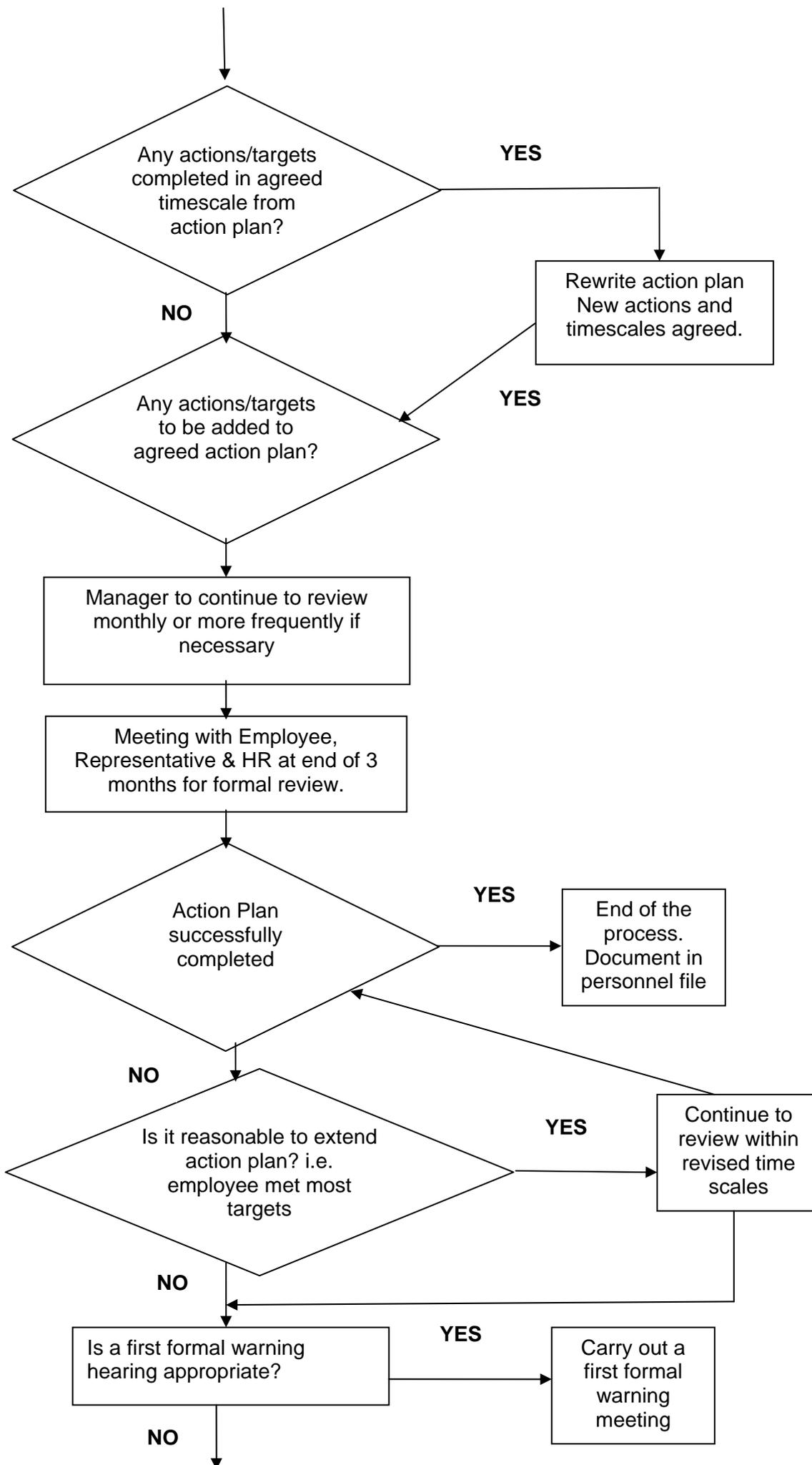
Manage accurate, complete, accessible and up to date records and reports.	have access to up to date information.	basis.			Record within maximum of one week of contact.	
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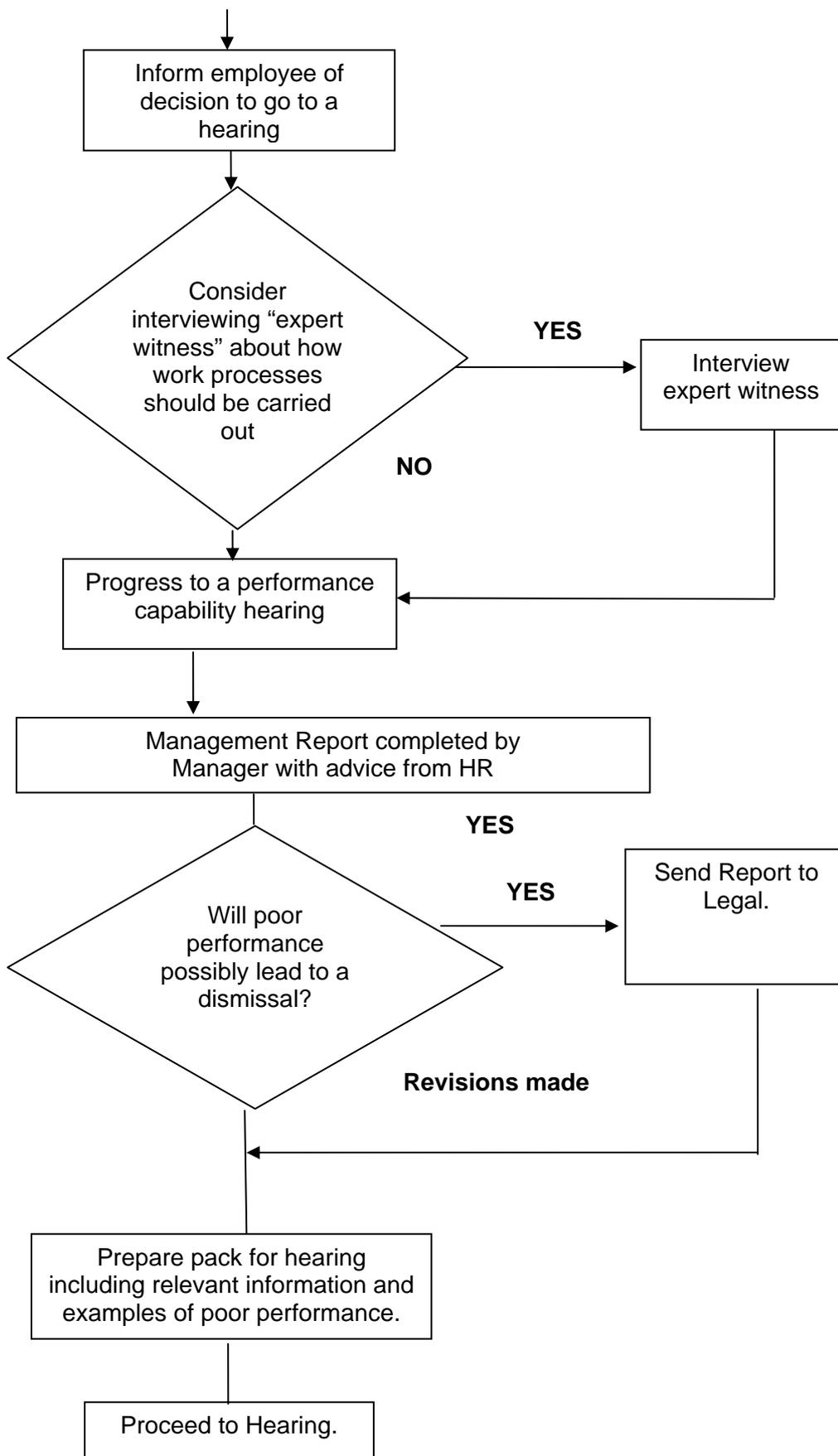
2) Example of an action plan for administrative assistant.

Areas of concern	Aim	Action	Evidence	Timescale	Comments
1. Unable to meet deadlines for reports to be typed or quality of final format.	Ensure that reports are compiled and typed in a timely manner.	To plan for deadlines and prioritise accordingly.  Shadow colleague on required standard and systems to meet timescales and quality.	Reports on 25th July and 25 <sup>th</sup> July were beyond deadline.  Evidence will be reports produced in August and September.	Two Months	Employee has had word training prior to commencing in this role and has also had induction in this area six months ago.
2. Minute Taking not to required standard	Improve minute taking	Shadow colleague;  Undertake minute-taking course with Powys Training in August.	5 sets of minutes discussed.  Evidence of improvement will be review of minutes produced after August.	Three months – due to time of training and improvement required.	

Process Map: Performance Capability







## Checklist for Planning – Performance Capability

Please note there is a business process (Appendix 3) and further guidance (Appendix 2) for managers which should be read in conjunction with this Checklist.

\* On occasion the Performance Capability Procedure and the Disciplinary Procedure will be invoked together. The two processes can run concurrently but managers and HR Advisers must be mindful of the links between the two procedures and the timeframes.

<b>Employee name:</b> .....	<b>Pay No:</b> .....
<b>Line managers / monitoring managers name:</b> .....	
<b>Dept.</b> .....	<b>HR Adviser</b> .....

Action	Responsible person	Date Completed
<p>Identify specific issues which fall below expected standards, refer to any professional Codes of Practice.</p> <p>Issues could be e.g. poor quality of assessments, ineffective case management or failure to meet targets/deadlines.</p> <p>May seek HR advice on commencing and documenting the process informally.</p>	Line Manager – in discussion with their manager.	
<p>Identify specific issues with employee in supervision or a specific meeting, giving examples and expectations.</p> <p>Discuss any other factors which may affect performance such as relationships in work or home, disability or medical condition circumstances.</p> <p>Confirm use of the Performance Capability Procedure and ensure employee receives a copy.</p> <p>Document the conversation, ensuring it is clear the employee understands what they need to do to improve performance.</p>	Line Manager	

Monitor performance through supervision referring back to previous targets but using up to date examples.	Line Manager	
If issues are not resolved in a timely period e.g. up to three months.  Discuss progressing concerns formally with HR Adviser.	Line Manager	
Devise an action plan for up to three months in line with any relevant Codes of Practice, with specific issues, examples and timeframes.	Line Manager in discussion with HR Adviser.	
Meet employee to inform them formal action is being progressed and agree a formal action plan.  The employee has the right to be represented at this meeting and any formal meetings from this point.	Line Manager and HR Adviser.	
Monitor action plan through supervision but record separately.	Line Manager	
Review progress formally with employee after a month – some targets may be completed some may need to be added.	Line Manager in discussion with HR Adviser	
Progress review after three months and consider whether you need to:-  extend action plan; progress to consideration of first formal warning; progress to a performance capability hearing.  Employee will need to be met with for this outcome to be communicated.	Line Manager in discussion with HR Adviser	
If decision is made to extend the action plan there is a need to document the reasons for this and the targets for an extended action plan.	Line Manager in discussion with HR Adviser	

If a decision is made to progress to consideration of first formal warning the employee will need to be invited to a further meeting.	Line Manager	
Carry out consideration of first formal warning and deliver outcome to employee.	Line Manager and HR	
If a decision is made to progress to a Performance Capability Hearing consider inviting "expert witness" to state how work should be carried out.	Line Manager in discussion with HR Adviser.	
Prepare pack for Performance capability hearing with evidence of monitoring of plan and specific evidence of poor performance. Include evidence from appropriate records or systems. Consider inviting "expert witness" to state how work should be carried out.	Line Manager with advice from HR Adviser	
Contact any witnesses and explain process.	HR Adviser	
If possible dismissal forward pack to Legal and Senior HR adviser	HR Adviser	
Incorporate any comments from Legal and Senior HR adviser	Line Manager and HR Adviser	
Proceed to Performance Capability Hearing Process (Process Map at Appendix 5)	Line Manager and HR Adviser	

**Performance Capability Hearing - Process Map**

