

Capability Procedure - Performance

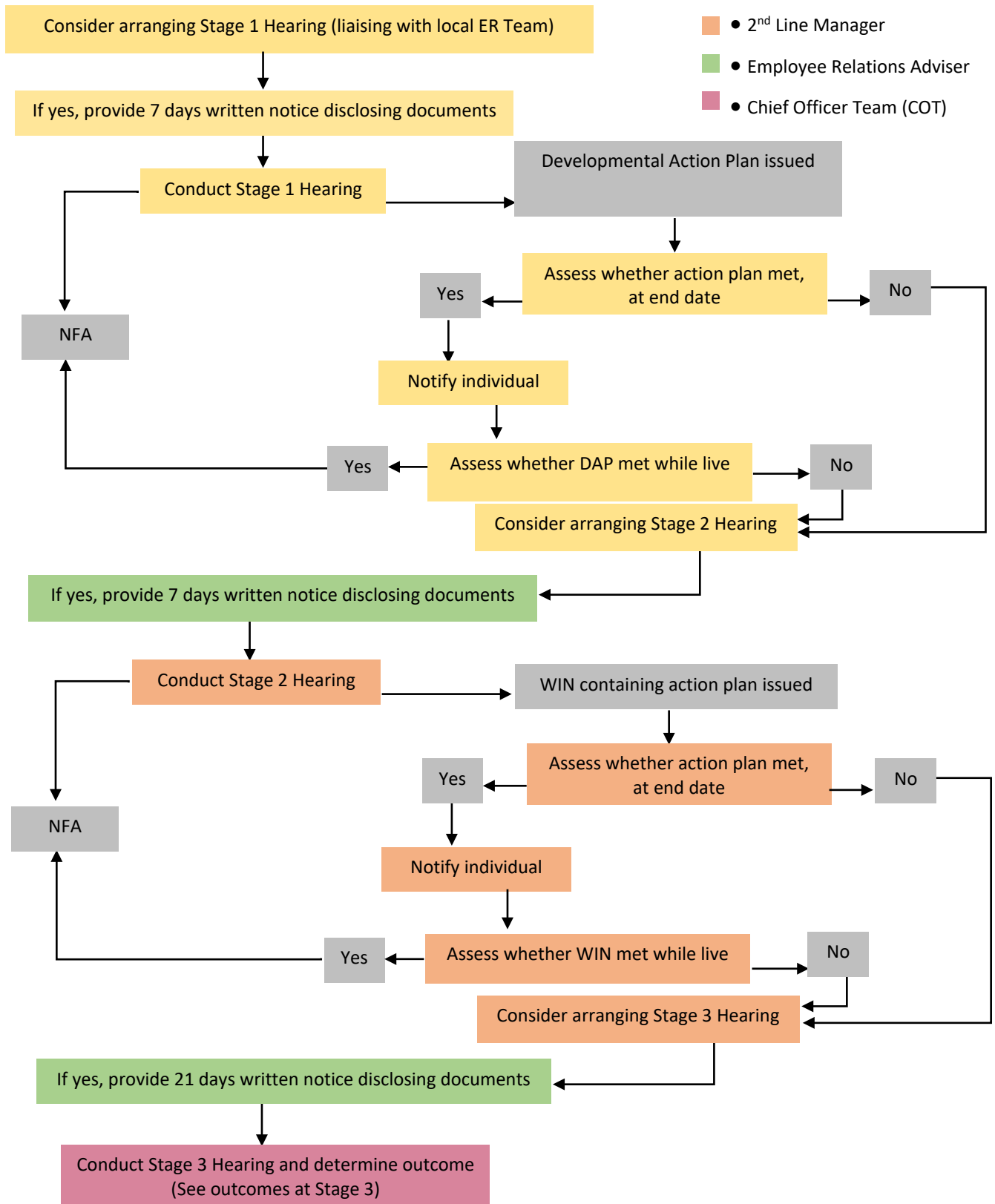
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Flowchart

Key:

- Line Manager
- 2nd Line Manager
- Employee Relations Adviser
- Chief Officer Team (COT)



Policy Statement

Summary

West Yorkshire Police recognises that individuals are the organisation's most important asset and it needs to have a consistent and fair method to deal with issues relating to a lack of capability, qualifications or performance in the role for which individuals are employed.

WYP is committed to supporting individuals to achieve the required standards of performance, offering training and advice where appropriate. This procedure establishes a fair, reasonable and proportionate means of dealing with individuals where, as a direct consequence of the above, they fail to cope with a reasonable workload or meet the standards of performance required.

It will be applied in cases where individuals fail or cease to meet the occupational requirements of their roles including cases where they remain in role after other procedures are exhausted.

Scope

This procedure applies to all police staff (excluding those within their probationary period) regardless of grade, status and role.

It does not apply to those occasions where an individual is failing due to:

- A medical condition. These cases will be dealt with in accordance with the Medical Capability - Police Staff policy; or
- Negligence or lack of effort. These cases will be dealt with in accordance with the Discipline - Police Staff policy.

National Police Air Service (NPAS) Pilots who cease to meet the occupational requirements of their role once they reach the age of 60 will be dealt with in accordance with the relevant section of this policy.

Principles

General

- All issues relating to capability will be thoroughly investigated.
- Managers must ensure that individuals are trained to carry out their role and that they receive adequate supervision.
- Individuals are expected to actively participate in identifying and responding to any support/training they are given.
- The procedure can be implemented at stage 3 where warnings and time for improvement will be of no benefit to the individual or the organisation.
- Individuals have the right of appeal against all formal sanctions imposed under this procedure.
- Managers conducting hearings must do so in a fair, reasonable and objective manner, in line with the National Decision Model.

- Hearings may be rearranged to accommodate individuals, however, there may be circumstances when the hearing will continue in the individual's absence, e.g. where:
 - Long term sickness prevents the individual's attendance;
 - The individual is repeatedly unavailable or fails to attend; and
 - All reasonable attempts have been taken to ensure the individual's attendance.
 - Only in exceptional circumstances would a hearing be rearranged more than twice. If the individual cannot attend on the second occasion and the person hearing the case decides to proceed in their absence they will be notified in writing and offered the opportunity to be represented instead.
 - Trade Union representatives or work colleagues may attend meetings at all stages with their members.
 - No formal action must be taken in respect of a Trade Union representative until the issue has been discussed with a full time Trade Union official.
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Alternative Employment

If an individual is offered alternative employment as a result of this procedure, the following rules will apply:

- The individual will be given access to, and allowed to apply for, vacancies advertised via the On-line Recruitment System.
 - Priority for vacancies will be given to individuals WYP has a legal obligation to find alternative employment for, e.g. those at risk of redundancy, on maternity leave and who are at risk of redundancy or with a medical condition covered by the Equality Act 2010.
 - Individuals will be allowed a maximum of twelve weeks to seek alternative employment.
 - Where necessary, interviews will be held and any offer will initially be on a trial basis for up to 28 calendar days, during which time reasonable training issues must be addressed.
 - Protection of earnings will not apply where an individual secures alternative employment via this procedure at a lower pay scale.
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Responsibilities

Line Managers

Line managers are responsible for:

- Investigating where individuals are identified as experiencing performance difficulties through:
 - Complaints from the public or colleagues etc.;
 - Audits and inspections;
 - Direct observation; or
 - PDR reviews;
- Obtaining advice from and determining how the case must be dealt with, in consultation with their Employee Relations Adviser;
- Raising specific issues with the individual initially through informal discussion, establishing any contributory factors or underlying problems,

e.g. level of supervision, relationships with colleagues, insufficient training, workload, health or other personal reasons;

- Exploring how performance can be improved, setting a development plan and documenting this in the individual's PDR;
 - Promptly letting the individual know when the performance issue is resolved and no further action will be taken, subject to continued satisfactory performance;
 - Sending the individual written notification of stage one hearings at least seven calendar days in advance;
 - Ensuring that any written documents to be presented at the stage one meeting by either party are disclosed no later than seven calendar days in advance;
 - Documenting discussions held from informal management and a Stage 1 hearing;
 - Notifying the individual in writing when the developmental action plan has been achieved;
 - Following consultation with their Employee Relations Adviser, starting formal action where no improvement is forthcoming;
 - Dealing with the individual in accordance with the formal actions of this policy if they have been rated Improvement Required (or equivalent) for overall performance in their PDR or Inconsistent Performer (or equivalent) for overall performance in two successive PDRs; and
 - Discussing issues with a full time Trade Union official before taking action in respect of a Trade Union representative.
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**Employee
Relations Team**

Employee Relations Advisers are responsible for:

- Ensuring that there are no factors relating to poor performance, which make this formal procedure inappropriate e.g. a medical condition or disciplinary matter;
 - Sending the individual written notification of stage two hearings at least seven calendar days in advance;
 - Ensuring that any written documents to be presented at the hearing by either party are disclosed no later than seven calendar days in advance; and
 - Sending individuals the form to indicate if they are agreeable to alternative employment at stage 2.
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Individuals

Individuals are responsible for:

- Achieving and maintaining the standards of performance that have been outlined to them;
- Informing their manager of any issues which could be affecting the work performance as appropriate. This could include personal issues;
- Understanding that if the work performance falls below that which is acceptable managers will be obliged to address this;
- Co-operating with their managers in identifying development needs and to act upon them;

- Engaging in any reasonable requirements for training and development/development plans that will enable them to reach a satisfactory level of performance;
 - Co-operating and engaging with the process when concerns of poor performance have been raised;
 - Understanding the goals and objectives of the team and organisation as a whole;
 - Being aware of the code of conduct and Force policies that are to be adhered to in their job role; and
 - Completing, signing and submitting the form indicating if they are agreeable to alternative employment at stage 2 of the process.
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Informal Management of Performance and Capability

Criteria

- Individuals subject to this procedure will be dealt with initially by way of informal discussion unless they have been:
 - Rated as Improvement Required (or equivalent) - for overall performance in their PDR; or
 - Rated as Inconsistent Performer (or equivalent) - for overall performance in two successive PDRs while in the same role, in which case the formal action provisions of this procedure will apply; or
 - In consultation with the Senior Employee Relations Adviser, if it is considered that warnings and time for improvement will be of no benefit to the individual or the organisation in which case stage 3 of this procedure will apply. The justification for such a decision must be documented. If a case progresses straight to stage 3, individuals will be offered an alternative employment at this stage rather than stage 2 which would ordinarily be the case.
 - Informal discussion must identify the issue(s) relating to performance, and to explore and agree possible solutions or ways in which the improvement can be achieved. The record of the informal discussion must be made in the PDR on an Individual Development Meeting (IDM) entry. An action plan must be set, with a specified timescale for review, and relevant objectives recorded in the PDR.
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Formal Action – Stage 1

- Stage 1 Hearing** Following consultation with the Employee Relations Adviser, once it is clearly established that inadequate performance is due to a lack of capability, a formal review hearing will be arranged to discuss the areas of ongoing concern. This will involve:
- The first line manager, who will conduct the hearing and provide specific information in respect of any shortfalls in performance;
 - The individual and, if they wish their trade union representative or work

colleague; who will be given the opportunity to put forward an explanation; and

- An Employee Relations Adviser may attend, where necessary, to advise on procedure and employment law.
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Purpose

The hearing is intended to remind the individual of:

- The standards of performance expected;
 - Any earlier informal discussions;
 - The steps taken to encourage improvement; and
 - Consideration will also be given to whether to delay the individual's progression to the next incremental pay point in accordance with **Section 1.3** of the Police Staff Terms and Conditions Agreement for a specified period. The specified period must end no later than the date of expiry of the Developmental Action Plan (DAP) unless the case is progressed to stage 2.
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Developmental Action Plan (DAP)

- If the line manager considers further improvement is required, they will issue the individual with a Developmental Action Plan (DAP), within 14 calendar days of the hearing.
 - The DAP constitutes a written warning that the organisation will consider taking further action in respect of the individual's continued employment if the targets and standards are not:
 - Achieved within the time allowed in the developmental action plan. The timescale for the developmental action plan will vary depending on the extent of support or training required and the degree of performance problems. The timescale must not be excessive but reasonable in the circumstances; and
 - Maintained during the 'live' period (i.e. twelve months from the date of issue).
 - The Developmental Action Plan will include:
 - Details of inadequate or poor performance;
 - Standards required and targets to achieve with details of associated support and training measures as appropriate to the case; and
 - Details confirming the monitoring arrangements.
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Developmental Action Plan

- If, by the end of the time allowed in the developmental action plan, the individual's performance has improved to the required standard they will be notified in writing and reminded that their improved performance must be maintained during the 'live' period.
- If it:
 - Has not improved to an acceptable standard within the time allowed for the developmental plan;
 - Has improved but not been maintained at an acceptable standard; or
 - Deteriorates again during the period the plan is live,

Then the line manager will give consideration to progressing to the next stage of the formal process without recourse to earlier stages.

Formal Action – Stage 2

Stage 2 Hearing	<p>Once it has been decided that performance still remains unsatisfactory after stage 1, a stage 2 hearing will be arranged to discuss the areas of ongoing concern, this will involve:</p> <ul style="list-style-type: none"> • The second line manager who will conduct the hearing; • The first line manager to provide specific information about the individuals performance; • The individual, and if they wish their trade union representative or work colleague; and • An Employee Relations Adviser to advise on procedure and employment law.
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Purpose	<p>The hearing is intended to consider:</p> <ul style="list-style-type: none"> • Facts relating to the individual's performance and what steps have been taken to assist them; • The reasons why they have failed to achieve or maintain acceptable standards of performance; • The individual's response and mitigating factors; • Whether to delay the individual's progression to the next incremental pay point in accordance with Section 1.3 of the Police Staff Terms and Conditions Agreement for a specified period. The specified period must end no later than the date of expiry of the Written Improvement Notice (WIN) unless the case is progressed to stage 3; • Giving the individual a specified timescale within which to seek alternative redeployment. This would run concurrently to any DAP and would need to be concluded before a case progresses to stage 3; and • Issuing the individual with a WIN within 14 days of the hearing, containing a further developmental action plan, to emphasise that unless improvement is forthcoming in whatever timescale is reasonable and practicable and maintained thereafter, they may be dismissed. <p>• This WIN will remain 'live' for a period of twelve months from the date of issue.</p>
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Written Improvement Notice	<p>The Written Improvement Notice must be stored on the HR file and include:</p> <ul style="list-style-type: none"> • A Further Developmental Action Plan; <p>If, by the end of the time allowed in the further developmental action plan, the individual's performance has improved to the required standard they will be notified in writing and reminded that their improved performance must be maintained during the 'live' period of the WIN.</p> <p>If it:</p>
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- Has not improved to an acceptable standard within the time allowed for the further developmental plan;
 - Has improved but not been maintained at an acceptable standard; or
 - Deteriorates again during the period the warning is live,
- Then the line manager will give consideration to progressing to the next stage of the formal process without recourse to earlier stages.
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Formal Action – Stage 3

Stage 3 Hearing	<p>The Stage 3 hearing will be arranged to consider all relevant facts from both parties, including the measures taken to improve performance, to determine the appropriate outcome and this will involve:</p> <ul style="list-style-type: none"> ● A member of the Chief Officer Team to conduct the hearing; ● The first line manager or second line manager to provide specific information about the individual's performance; ● The individual, and if they wish their trade union representative or work colleague to present their case; ● A Senior Employee Relations Adviser to advise on policy and employment law.
Purpose	<ul style="list-style-type: none"> ● The stage 3 hearing is to consider all relevant facts from both parties including any measures taken to improve performance in order to determine the appropriate outcome.
Before the Meeting	<ul style="list-style-type: none"> ● The individual will be given written notification of the hearing at least 14 calendar days in advance and the Employee Relations Adviser will disclose any relevant documents at this time. ● At least seven calendar days before the hearing, the individual will: <ul style="list-style-type: none"> ○ Disclose any written documents they wish to rely on at the hearing; and ○ Provide details of any Trade Union representative or work colleague who will be accompanying them.
Outcomes	<p>The possible outcomes of stage 3 are to:</p> <ul style="list-style-type: none"> ● Dismiss if there is no reasonable prospect of alternative employment; ● Set a FWIN with an appropriate timescale if the facts indicate that all reasonable steps have not been taken; or ● Determine that no further action will be taken.
Payment in Lieu of Notice	<ul style="list-style-type: none"> ● If dismissed, the individual will receive payment in lieu of notice from the date of the decision, which will become their last day in the employment of West Yorkshire Police.

NPAS Pilots

Pilots Aged 60

- The Civil Aviation Authority (CAA) Air Navigation Order 2009 stipulates that when pilots reach the age of 60, they can no longer fly commercial air transport, unless this is as a member of a multi-pilot crew.
 - NPAS do not have a role which allows pilots to fly as multi crew therefore when an individual reaches their 60th birthday they will be unable to fly as a single pilot, resulting in them ceasing to meet the occupational requirements of their role. The following process must therefore be followed.
 - The relevant Employee Relations team will notify line management in advance of a pilot's 60th birthday in order that arrangements can be made.
 - Four months prior to a pilot's 60th birthday line management must arrange a one to one meeting with the pilot to discuss the following:
 - Whether they will be seeking alternative employment with WYP through the normal recruitment process, in which case the individual will be required to apply for any vacancies before they reach the age of 60;
 - The individual may choose to resign; or
 - The individual can request early access to their pension from the age of 55, in accordance with West Yorkshire Police's retirement policy. If considering early retirement without employer consent, the individual must contact the West Yorkshire Pension Fund for information on their pension benefits.
 - WYP requires at least 3 months written notice of any resignation/early retirement wherever possible.
 - At the one to one meeting the pilot will be provided with written notice, from the People Director, advising them that in the event that any of the above options have not come into fruition prior to them reaching their 60th birthday, they will be dismissed from WYP with effect from the day they reach 60 years of age. This letter will also include the right of appeal.
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Appeals

Introduction

- Individuals have the right to appeal against all formal sanctions imposed under this policy based on:
 - The facts the decision was based on;
 - The severity of the sanction; or
 - A procedural irregularity.
- An appeal must be submitted personally or by recorded delivery within 28 calendar days of the date of the hearing, explaining the grounds and reasons for the appeal.
- Appeals against warnings must be submitted to the Senior Employee

Relations Adviser and against dismissal to the People Director.

- An appeal hearing will be arranged to take place within two months and will consider all the facts together with submissions made by the individual and/or their representative and line management and will determine whether the decision taken by the person hearing the original case was fair and reasonable in light of the specific appeal criteria.
 - Individuals must receive at least seven calendar days' notice of the appeal hearing and can be accompanied by a recognised Trade Union representative or work colleague.
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Appeals Panel

- Appeals panels for warnings will be comprised as follows:
 - An independent person of at least the same level as the person hearing the original case; and
 - An independent Senior Employee Relations Adviser to advise on procedure and employment law.
 - Appeals panels for dismissal will be comprised as follows:
 - The Deputy Chief Constable;
 - One other member of the Chief Officer Team (where necessary for complex cases); and
 - A member of the People Senior Leadership Team to advise on procedure and employment law.
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Decision

- Appellants will be notified of the decision and reasons, verbally at the hearing and followed in writing within 14 calendar days of the date of the hearing.
 - Any decision at appeal is final.
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Additional Information

Compliance

This policy complies with the following legislation and policies:

- Equality Act 2010
 - Data Protection Act 2018
 - Attendance Management policy
 - Unsatisfactory Attendance Procedure - Police Staff policy
 - Discipline – Police Staff policy
 - Performance Development Reviews (PDR) policy
 - Probationary Procedure Police Staff policy
 - Police Staff Terms and Conditions
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Supporting Information

The supporting information for this policy can be accessed online.
