



# The Children First Learning Partnership Performance Improvement Policy 2023-2024 (Version 3)

The Performance Improvement Policy in respect of the Children First Learning Partnership has been discussed and adopted by the Directors Board after consultation with Unions

*Chair of Board:*

*Mrs N. Chell*

*Responsible Officer:*

*CEO - Mrs A Rourke*

*Agreed and ratified by the Directors Board on:*

*23<sup>rd</sup> October 2023*

*To be reviewed:*

*October 2024*

## **1. Purpose**

The purpose of this policy and procedure is to improve the standards of performance of our colleagues and to encourage improvement where necessary. This procedure does not deal with conduct or sickness absence issues. These are dealt with in our disciplinary and managing attendance at work policies.

Any reference to 'the employer' refers to Directors. The 'appropriate level of authority' is determined by the Directors. This policy applies to employees of the organisation, referred to in this policy as colleagues.

The procedure applies to all colleagues, regardless of length of service, but does not form part of the contract of employment and can be varied from time to time and in consultation with the recognised trade unions. The procedure does not apply once you have left the Children First Learning Partnership.

## **General Principles**

All managers have a duty to define, communicate and monitor the required standards of performance and provide regular feedback, support and recognition to colleagues on their performance. Colleagues are expected to take ownership for their progression towards achieving and sustaining acceptable performance and any identified performance improvement.

As the aim of the procedure is to improve standards of performance, which fall below expectations, initially any performance issues should be dealt with informally by way of discussion with your line manager who will help, guide or advise you in improving your performance.

At any stage where a need for assistance and support has been agreed between you and your line manager, your manager will ensure that the support is provided and will allow sufficient time for it to take effect.

Cases of unsatisfactory performance are usually best dealt with informally and confidentially. A conversation about the concerns and resolutions is often all that is required to improve your performance. In some cases additional training, coaching and advice may be what is needed. There will be situations where matters are more serious or where an informal approach has been tried but has not worked.

We are committed to equality and diversity and will make reasonable adjustments to the application of this policy and procedure where necessary and in line with our Equal Opportunities Policy.

## **2. Links with Other Policies and Procedures**

Grievance Policy – Where you submit a complaint during performance improvement proceedings, this will normally stop the proceedings from progressing. Where you raise a grievance during performance improvement proceedings:

- The performance improvement proceedings may be temporarily suspended in order to deal with the grievance or
- The grievance and performance improvement proceedings may be run concurrently where they are related

Where you assert that the performance improvement proceedings being undertaken are unlawfully discriminatory or are motivated by reasons other than poor performance, you can raise a grievance.

**Managing Attendance at Work Policy** - Where you are absent due to sickness, the managing attendance at work procedure will apply as normal. Under these arrangements due regard will be had for what is said by Occupational Health and any information you may wish to provide from your GP. We will arrange for you to see Occupational Health as soon as possible for them to assess your health generally and whether or not you are fit to participate in these procedures. Being absent from work due to sickness will not automatically stop the performance improvement procedure progressing.

### **3. Informal Performance Improvement Process**

Where a manager has a concern about your performance there will normally be an informal period to improve your performance. The purpose of this is to identify and examine any areas of support and guidance, to ensure that you understand any future expectations of your performance and, where appropriate, to develop a performance improvement plan leading to improvements in your performance. Although this may result in a note of the discussion and any follow-up correspondence being kept by your manager on your personal file, this will not be considered to be a sanction under the formal Performance Improvement policy.

You will be asked to confirm that you agree with any action plan you are signing up to, is achievable and realistic and should raise any concerns that you have about the action plan with your manager.

In the event that the matter cannot be resolved informally within a reasonable timescale or the matter is too serious for the informal approach to be applied, the formal performance management process will follow. The aim of the process is to improve your performance.

Managers may progress your performance improvement case to the next step of the process before the expiry of the performance improvement plan.

### **4. Transition to the Formal Improvement Process**

Before formal action is taken in relation to poor performance, the following steps will be taken:

- A review of your performance will take place. This might include a review of information from the informal performance improvement process or the performance improvement plan, monitoring your work and meeting with you to provide further insight or information related to your performance.

- If following this review your manager concludes it would be more appropriate to continue to address the remaining concerns through the informal performance process, or normal management, the performance improvement procedure will come to an end and your performance will be managed under the normal performance management process.

## **5 . Formal Performance Improvement Process**

If, following this review, it is believed that there are reasonable grounds for taking formal action or the next stage of formal action; you will be required to attend a performance improvement meeting.

You will be invited to the meeting in writing in accordance with the 'Formal Meeting/Hearing/Appeal Procedure' (Appendix 1)

You will be provided with written details of the poor performance concerns, the reasons for the concerns and the possible outcomes, at least 10 working days before the meeting/hearing/appeal.

## **6. Right to be Accompanied**

You have the right to be accompanied by a companion at any meeting as part of the formal performance management procedure. The companion may be a fellow colleague, a trade union representative or an official employed by a trade union.

The companion is allowed to address the hearing, to put and sum up your case, respond on your behalf to any views expressed at the meeting and confer with you during the hearing. They may also request an adjournment and ask questions of anyone present. The companion does not, however, have the right to answer questions on your behalf, address the hearing if you do not wish it or prevent the employer from explaining their case. Other than confirming that all parties have the same documentation it would not normally be necessary to read out the content of the documentation.

Under this procedure, you do not have the right to be accompanied by anyone else (such as a spouse, partner, other family member or legal representative).

It would not normally be reasonable for you to insist on being accompanied by a companion whose presence would prejudice the hearing nor would it be reasonable for you to ask to be accompanied by a companion from a remote geographical location if someone suitable and willing was available on site.

Where appropriate, eligible colleagues, for example those with disabilities or language difficulties, may have the attendance of a supporter or interpreter.

## **7.The Performance Improvement Meeting**

Formal hearings will be conducted in line with the Formal Meeting/Hearing/Appeal Procedure. You must make all reasonable efforts to attend a performance improvement meeting. If you or

your companion is unable to attend a meeting you may propose a new date of no more than 5 working days from the date of the original date.

The directors will respond sensitively when a delay is required as it may arise for a reason related to a disability or parental emergency involving dependants. We may arrange another meeting date if you fail to attend through circumstances outside of your control.

If you do not attend the meeting without good reason, it should be re-arranged but if you do not attend the rearranged meeting, a decision may be made in your absence. You may submit a written statement to be taken into consideration.

Where you are persistently unable or unwilling to attend the meeting without good cause the manager should make a decision on the evidence available.

The performance improvement meeting will be conducted by an appropriate person<sup>1</sup> known as the Deciding Manager, who has the appropriate level of authority with the relevant skills and experience. A representative from HR may also be present and will always be present at hearings that may result in dismissal or an alternative to dismissal.

At the meeting the poor performance issues identified will be explained and you will have the opportunity to put your explanation forward. Consideration will be given to the reasons for your poor performance and whether it is appropriate to provide any further measures by way of support. You will be informed what the level of improved performance will need to be, and by when, in order to end the performance improvement procedure. This will be detailed in your performance improvement plan. Any support that will be available to help you improve your performance will be explained to you and detailed in the plan. The steps and timescales for improvement of performance and how your performance will be monitored and reviewed will be discussed and explained at the meeting.

The timetable for improvement will depend on the circumstances of your case. It is for the Deciding Manager to determine the time period for improvement. It will be reasonable and proportionate, but not excessively long, and will provide you with sufficient opportunity for you to improve your performance.

The consequences of your failure to improve within the set period will be explained to you. In very serious cases, this could be a final improvement notice or dismissal.

The performance improvement meeting may be adjourned if it becomes necessary to explore any matters further. If any further evidence or information is obtained as a result, you will be given this evidence ahead of the reconvened meeting and given the opportunity to respond to it.

It is important that written records are kept during the performance improvement process. Action plans and notes of formal meetings will be given to you for your information and copies of notes, letters and action plans should be retained by the line manager.

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<sup>1</sup> In schools and Academies the performance improvement meeting for the Headteacher should be conducted by an appropriate Panel of Governors.

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## **8 . Formal Performance Improvement Notices**

### **Stage 1 – First improvement notice**

Following a formal performance improvement meeting; a first improvement notice may be issued by the Deciding Manager and will usually be appropriate after a period of informal support, where there are no previous notices and where any agreed adjustments and other support has been made or provided. The notice will remain active for 6 months and it should be disregarded for performance improvement purposes after this period. Your performance will be reviewed throughout the period of the notice.

### **Stage 2 – Final improvement notice**

Following a further formal performance improvement meeting; where any agreed adjustments and other support has been made or provided, a final improvement notice may be issued by the Deciding Manager in the following circumstances:

- where, within the review period of the first improvement notice, the necessary improvement has not been achieved
- where the seriousness of the poor performance is sufficient to warrant such a warning even though no previous warning may have been issued.

This will remain active for 12 months and it should be disregarded for performance improvement purposes after this period. Your performance will be reviewed throughout the period of the notice.

### **Stage 3 – Dismissal**

Only a Deciding Manager with the appropriate level of authority ( ie panel of directors) can take a decision to dismiss and where any agreed adjustments and other support has been made or provided. You may be dismissed in the following circumstances:

- any poor performance during your probationary period (except where national guidelines detail otherwise)
- where within the duration of the final improvement notice and following further formal procedure, the necessary improvement has not been achieved and any agreed adjustment and other support has been made or provided. This would be with notice or payment in lieu of notice.
- where, on the balance of probability, it is reasonably believed that you have committed an act of gross negligence; this will usually be dealt with under the disciplinary policy. Gross negligence will usually result in summary dismissal without notice and without pay in lieu of notice.

Directors may at its discretion consider alternatives to dismissal, for example demotion. If an alternative is applied, it may also be accompanied by a final improvement notice.

## **9. Performance Improvement Notices**

Where a notice is issued, this will be confirmed to you in writing within 10 working days of the performance improvement meeting. The notice will state the poor performance that led to the notice, the action or improvement required by you, the duration of the review period, any measures that will be taken to support you, the duration of the notice and the likely consequences of the action or improvement not being taken and/or any further poor performance. You will also be advised of the right of appeal and the person to whom your appeal should be made.

## **10. Regular Feedback**

Following any formal stage your manager has the responsibility to provide you with regular feedback and evidence on how your performance is progressing against your performance improvement plan. Feedback should not be saved for the next formal stage but shared with you during the performance notice. This prompt feedback could lead to improvements in your performance and could avoid the need to move to the next stage of the procedure.

## **11. Appeals**

Where an improvement notice has been issued, if you are dissatisfied with that decision, you can appeal at all formal stages. Your appeal must be in writing and set out grounds of your appeal in line with the list below and include all the information you wish to rely on at the appeal hearing. You must send your appeal to the Appeal Deciding Manager within 5 working days of the date you received the letter notifying you of the performance improvement meeting decision. You must be appealing against either:

- the finding that you are underperforming in your role where the evidence did not support this
- the severity of the performance notice taking into account the nature of the misconduct and the mitigating circumstances.
- the fact that you don't feel the correct procedure was followed
- the fact the new evidence has come to light that would change the outcome
- the sanction is inconsistent with how others have been treated
- there was unlawful discrimination in the handling of the performance improvement.

You will be invited to the appeal hearing in writing in accordance with the 'Formal Meeting/Hearing/ Appeal Procedure'. You will be given at least 10 working day's notice of the appeal meeting. You have the right to be accompanied at the appeal meeting by your companion.

## **12. Outcome**

The outcome of the appeal may be to overturn or confirm the original decision or apply a different, but not more serious, sanction. The Appeal Deciding Manager will either recall the colleague to the Appeal Hearing or will write to the colleague confirming their decision. The appeal outcome will be confirmed in writing within 10 working days of the appeal hearing. There is no further right of appeal.

## **13. Effective Date**

This procedure has been agreed with the trade union representatives and was adopted by Staffordshire County Council on 15/04/2013 and by CFLP Directors on the date at the footer of this document.

The Head of HR, or delegated person, will periodically review this procedure with the trade unions following changes in employment law or at the request of the business or the Trade Union Consultative Committee.

A Equality Impact Assessment was carried out on this policy and procedure prior to implementation.



## **Appendix 1 for formal meetings/hearings/appeals procedures**

### **Formal Meeting/Hearing/Appeals Procedure**

#### **Introduction**

This meeting/hearing procedure will apply to formal meetings/hearings that are held under the employer's Performance Improvement policies and procedures. The procedure also applies to appeal meetings/hearings.

All parties must be committed to adhering to the timescales set out in the associated policies and procedures and endeavour to avoid undue delay.

This procedure applies to employees, referred to in this procedure as colleagues.

#### **General Principles**

The Deciding Manager<sup>2</sup> hearing the case will make the arrangements for the meeting/hearing and may be supported by Human Resources. This will include writing to the colleague, arranging the accommodation and making arrangements for a note taker. Formal meeting notes must be shared and an opportunity to amend or comment will be given to the colleague.

The Deciding Manager will have the authority, skill and experience necessary to fairly consider the facts and make a decision. Every effort should be made to avoid escalating issues to the most senior managers without good reason.

For appeal meetings/hearings, the Appeal Deciding Manager will be someone who has the appropriate level of authority but who has not previously been involved in the earlier decision and has the authority to overturn the decision made at the earlier hearing/meeting.

#### **Arranging the meeting/hearing/appeal**

A letter inviting the colleague to attend a formal meeting/hearing/appeal must be sent in writing at least **10 working days** before the meeting/hearing/appeal.

Colleagues must provide copies of any relevant evidence they intend to refer to, at least **3 working days** before the meeting/hearing/appeal

#### **Invitation to the meeting/hearing/appeal**

The invitation will contain sufficient information about the alleged misconduct or poor performance concerns and its possible consequences to enable the colleague to prepare to answer the case at a meeting/hearing/appeal. It would normally be appropriate to provide copies of any written evidence, (which may include any witness statements, or evidence from the informal approach) with the invitation.

The invitation will also give details of the time and venue for the meeting/hearing/appeal and advise the colleague of who will be present and their right to be accompanied at this.

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<sup>2</sup> In schools and Academies the hearing and appeal hearing should be conducted by separate Panels of Governors. Staff Governors should not normally be on any panel. A decision to dismiss can only be taken by a panel of 3 Governors.

### **Attendees at the meeting/hearing/appeal**

The Investigating Manager or prior decision makers or any witnesses will **not** be called to attend the meeting/hearing/appeal as standard unless requested to do so. The investigating manager or prior decision maker will be available to answer clarification questions at the meeting/hearing/appeal if so required. The investigation report and written statements will be relied upon as evidence. The colleague has the right to request that a witness (s) attend the meeting/hearing/appeal. Colleagues will be expected to present any character witness evidence in writing rather than require the witness to attend the meeting. However, witnesses whose evidence is not challenged will not be called. Where a witness is required to attend the Deciding Manager hearing the case will invite them in writing.

### **Non attendance at formal meeting/hearing/appeal**

If the colleague or their companions are unavailable to attend, they may propose a new date no more than **five working days** from the date of the original meeting/hearing date.

If the colleague does not attend the meeting/hearing/appeal without good reason, it should be re-arranged but the colleague will be advised that if they do not attend the rearranged meeting/hearing/appeal, a decision may be made in their absence. They may submit a written statement to be taken into consideration.

Where a colleague is persistently unable or unwilling to attend the meeting/hearing/appeal without good cause the Deciding Manager hearing the case should make a decision on the evidence available.

### **Non-attendance at formal meeting/hearing/appeal – due to sickness absence**

The Deciding Manager hearing the case and colleagues (and their companions) should make every effort to attend the meeting/hearing/appeal. The Deciding Manager hearing the case will respond sensitively when a delay is required as it may arise for a reason related to a colleague's disability or emergency involving dependants. Where a colleague cannot attend due to sickness they must provide a fit note from their GP to certify their absence.

Where colleagues are absent due to sickness, the managing attendance at work procedure will apply as normal. However, those responsible for keeping in touch would not normally be the same people involved in the handling of their case. Under these arrangements due regard will be had for what is said by Occupational Health and any information the colleague may wish to provide from their GP. The employer will arrange for the colleague to see Occupational Health as soon as possible for them to assess their health generally and whether or not they are fit to participate in these procedures. Being absent from work due to sickness will not automatically stop the procedure progressing.

### **Conduct of the meeting/hearing/appeal**

The Deciding Manager hearing the case should introduce those present and clarify roles, explain the purpose of the meeting/hearing/appeal, how it will be conducted and check that the

colleague received the documentation in advance of the meeting/hearing/appeal. The Deciding Manager hearing the case should also check that the colleague is aware of what the potential outcome of the meeting/hearing/appeal may be.

The Deciding Manager hearing the case should establish what the poor performance issues are and clarify that the written documentation has been fully reviewed. The Deciding Manager will ask questions to clarify any points. For appeal meetings the Deciding Manager will ask the colleague why they are appealing.

The colleague (or their companion) then has the opportunity to state their case and present evidence, including calling of the witness(s) where appropriate. They will be given the opportunity to ask questions to clarify points. For appeal meetings the Deciding Manager should pay particular attention to any new evidence that has been introduced, and ensure the colleague has the opportunity to comment on it

Before adjourning the meeting/hearing/appeal the Deciding Manager should summarise the main points of the discussion after questioning is completed and ask the colleague if there is anything further that they want to add.

The meeting/hearing/appeal will then be adjourned. This is an opportunity for the Deciding Manager hearing the case to consider the facts or instigate further investigation into the matter before coming to their decision.

## Outcome

The Deciding Manager hearing the case will either recall the colleague to the meeting/hearing/appeal or write to the colleague confirming their decision and if necessary, their right of appeal. The outcome of the meeting/hearing/appeal will be confirmed in writing within **10 working days** of the meeting/hearing/appeal.

## Version Control and History

Version	Date	Amendment	By
V2	23.09.22	Review dates and version dates changed	CEO
V3	01.08.2023	Appendix added to clarify formal meetings/hearings/appeals procedures Date of review- Autumn 2022 and ratification changed to Autumn 2023(Front cover)	COO