

# Loughborough College

## *Performance Support and Management Policy and Procedure*

### 1. Scope and Purpose

- 1.1 This policy and procedure applies to all employees of Loughborough College (the “College”) with the exception of those in their probationary period.
- 1.2 The purpose of this policy and procedure is to support employees in achieving and maintaining acceptable standards of work performance. It allows the College to resolve issues informally but also to proceed with formal proceedings where appropriate.
- 1.3 The policy and procedure aims to ensure that there is:
  - a means of monitoring performance and establishing performance criteria
  - consistency in how employees with widely differing responsibilities and duties can attain satisfactory levels of performance
  - assistance in identifying and providing the most appropriate support for all employees
- 1.4 This policy does not have any contractual effect.

### 2. Policy/Procedure Statement (delete as appropriate)

- 2.1 The College places great importance on maintaining acceptable performance levels. This procedure enables managers to deliver a fair and objective process for ensuring that performance standards are met.
- 2.2 This policy and procedure are designed to support employees in achieving, maintaining and improving job performance where necessary. Their use ensures the consistent and fair treatment of all employees by providing a framework for identifying underperformance and supporting employees in achieving the required standard.
- 2.3 If poor performance relates to a disability, we will make reasonable adjustments to working arrangements for example changing their duties or providing additional equipment or training. The College may also consider making adjustment to this procedure in appropriate cases.
- 2.4 In exceptional circumstances, it may be necessary to temporarily remove an employee from their job to ensure the College meets its delivery standards.
- 2.5 Every employee has the right to be accompanied by a fellow employee or trade union representative (the “Companion”) at all formal meetings as part of this policy.
- 2.6 The process will conclude immediately if it is agreed by the line manager that the employee is working to the expected standard.
- 2.7 The College may continue with the capability process even if the employee is absent from work. It may also withhold College sick pay over and above the statutory sick pay (SSP).
- 2.8 Dismissals will only be carried out by the Chief Executive, or their designated deputy as defined in the college Articles and Instruments of the Corporation. Employees and Companion or witnesses must not make electronic recordings of any meetings or hearings conducted under this procedure. Employees

---

Document Name: Performance Support

(Capability)

Applicable to: All Employees

Approved by: Executive

Accessible to: All Employees

1 of 6

Version 1.0

Document Ref: **HR-P002**

Last review: January 2023

Next review: January 2026

Owner: HR

will be informed of the names of any witnesses whose evidence is relevant to the employee's capability hearing, unless the College believes that a witness's identity should remain confidential.

### 3. Impact Assessments

3.1. This policy/procedure has been assessed for its impact on equal opportunities and will be informed by the aim to eliminate all forms of discrimination in all strands of the equal opportunities legislation.

3.2. This policy/procedure has been assessed for potential risk on data subjects due to the processing of personally identifiable information. All processing has been reviewed and is in line with all current Data protection laws and appropriate safeguards implemented to ensure that the policy has privacy by design as its underlying approach.

(NOTE: The red text may only be displayed once the IAs are completed)

### 4. Policy/Procedure (delete as appropriate)

#### 4.0 Informal Capability Procedure (Stage 1)

- 4.1 Most issues of unsatisfactory performance can, and should, be resolved informally between line manager and employee.
- 4.2 The line manager and employee should informally discuss any concerns as they arise. This is meant to be a constructive conversation with both the line manager and employee working together to resolve the concern. If this does not resolve the concern, the line manager will consider appropriate informal action which could include coaching, training or management instruction.
- 4.3 The meeting should be informal and constructive to allow the employee an opportunity to express their opinion and for the line manager to determine whether there are any external factors which may be contributing to the poor performance. If required further exploratory meetings may be required to obtain information which might negate the need for formal action. If the concern is one of poor health, then the matter needs to be dealt with under the sickness support and management procedure.
- 4.4 After the meeting and if required, an action plan should be agreed which may include:
- any training specifically directed to address training needs identified to facilitate to improvement;
  - variance of workload
  - setting realistic review and monitoring of standards of performance in respect of agreed objectives and the requirements of the job;
  - review and monitoring of supervision required
  - timescales for assessing the effect of the action plan on the employee's performance
- 4.5 The manager should give the written action plan to the employee. It should contain a summary of required improvements, targets and timescales for achievement. Records of these action plans should be maintained for future reference.

---

Document Name: Performance Support  
(Capability)

2 of 6  
Version 1.0

Document Ref: **HR-P002**  
Last review: January 2023  
Next review: January 2026  
Owner: HR

Applicable to: All Employees  
Approved by: Executive  
Accessible to: All Employees

*This document is the property of Loughborough College.  
Any reproduction, even partial, is prohibited without prior written agreement.  
Document uncontrolled when printed*

- 4.6 The line manager will monitor and assess performance throughout the period set out in the action plan. In the vast majority of cases, no further action other than normal follow-up will be necessary.
- 4.7 The College aims to handle performance matters sensitively and with due respect for the individuals involved. All employees must treat as confidential any information communicated to them in connection with a matter which is subject to this capability procedure.

#### **4.1 Formal Procedure – First Formal Capability Hearing (Stage 2)**

- 4.1.2 If the employee does not meet the standard of improvement agreed during the informal procedure, then a formal hearing should take place to discuss performance. This hearing is the start of the formal procedure. The College will notify an employee in writing of:

- the College's concerns over the employee's performance
- reasons for those concerns
- potential outcome if the College decides that the employee's performance has been unsatisfactory

Employees will also be provided with a summary of the relevant information and documents which will be referred to during the hearing.

- 4.1.3 The employee may be accompanied at the hearing by a Companion. If the employee or Companion cannot attend the hearing, they should inform the College immediately so that an alternative time can be arranged. Employees must make every effort to attend the hearing. Failure to attend without good reason may be treated as misconduct. If an employee fails to attend without good reasons, or is persistently unable to do so, the College may take a decision based on the available evidence.

- 4.1.4 The hearing will be held by a manager and a member of the Human Resources department. The aims of the hearing may include:

- setting out the required standards that the College believe the employee failed to meet
- going through any relevant evidence the College has gathered
- allowing the employee to ask questions, present evidence, call witnesses, respond to evidence and make representations
- establishing the likely cause of poor performance including why any measures taken may have been unsuccessful
- identifying if there are further measures which may improve performance
- discussing targets for improvement and a timescale for review

If dismissal is a possibility, this hearing will aim to establish if there is any likelihood of a significant improvement being made within a reasonable time and whether are any practical alternatives to dismissal, such as redeployment.

- 4.1.5 After the formal hearing, the College will notify the employee in writing of its decision. If the College concludes that the employee's performance has not been satisfactory, then a written warning should be issued that sets out:

- areas in which the employee has failed to meet the required standards of performance
- employee's targets for improvement
- measures to be taken to improve performance
- length of the review period

---

Document Name: Performance Support  
(Capability)

3 of 6  
Version 1.0

Document Ref: **HR-P002**  
Last review: January 2023  
Next review: January 2026  
Owner: HR

Applicable to: All Employees  
Approved by: Executive  
Accessible to: All Employees

The warning should be clear about the consequences if improvement is not achieved within the review period.

- 4.1.6 The written warning will normally remain active for six months. A written warning remains permanently on the employee's personnel file but is disregarded in future capability proceedings.
- 4.1.7 The employee's performance will be monitored during the review period. If the employee's performance is satisfactory, this will be confirmed in writing. If the employee's performance is not satisfactory, the matter will be progressed to Stage 3.

## **4.2 Formal Procedure – Second Formal Capability Hearing (Stage 3)**

- 4.2.1 The procedure outlined in Stage 2 should be repeated if:
  - there is no improvement at completion of the review period or
  - there is further evidence of poor performance within six months of the written warning being issued

The repeat of the Stage 2 procedure is the Stage 3 Second Formal Capability Hearing.

- 4.2.2 If the College concludes that the employee's performance has not been satisfactory, then a final written warning should be issued that sets out:
  - areas in which the employee has failed to meet the required standards of performance
  - employee's targets for improvement
  - measures to be taken to improve performance
  - length of the review period

The warning should be clear about the consequences if improvement is not achieved within the review period.

- 4.2.3 The final written warning will normally remain active for 12 months. A written warning remains permanently on the employee's personnel file but is disregarded in future capability proceedings.

## **4.3 Formal Procedure – Final Formal Capability Hearing (Stage 4)**

- 4.3.1 Failure to meet the required standard specified at Stage 3 will result in a final formal capability hearing.
- 4.3.2 Following the hearing, if the College finds that the employee's performance is unsatisfactory, it may consider a range of options including:
  - dismissal
  - redeployment
  - extension of an active final written warning and setting a further review period or
  - issue of a new final written warning
- 4.3.3 The panel will consist of:
  - an Executive member
  - a member of the Senior Leadership Team

Although not a member of the panel, a member of the Human Resources team may attend to take notes and advise on College policy.

- 4.3.4 In advance of the meeting, the line manager will prepare an evidence based written report outlining the following information:
- support offered in earlier stages
  - effect of that support on the employee's performance
  - effect of employee's performance on the College
  - mitigating factors
- 4.3.5 The employee will be notified of the date and time of the hearing, and be provided with a copy of the report, at least five working days in advance of the hearing.
- 4.3.6 The employee may be accompanied at the hearing by Companion. Before the meeting, the employee is required to tell the College who they have chosen as Companion.
- 4.3.7 If the chosen Companion is unavailable on the date of the meeting, the employee may delay proceedings once by up to five working days to enable the chosen Companion to attend.
- 4.3.8 The hearing panel will consider if it is appropriate to terminate the employee's contract of employment. This will be based on whether or not the employee has improved following earlier advice, training and warning.
- 4.3.9 Any decision to dismiss will normally be with full notice or payment in lieu of notice. However, the College may dismiss without notice or payment in lieu if the employee's performance has been so negligent as to amount to gross misconduct.

## **5.0 Appeal**

- 5.5.1 An employee who wishes to appeal against formal action must do so within five days of receiving the decision in writing. The employee should write to the Director of HR. This letter should state the appropriate grounds for appeal.
- 5.5.2 Where the appeal is against a written warning, it will be heard by a senior manager who has not previously been involved in this employee's capability procedure. If possible, the manager hearing the appeal will be senior to the manager who chaired the original formal hearing.
- 5.5.3 Where the appeal is against dismissal, it will be heard by either:
- the Chief Executive, or designated deputy where the decision to dismiss was made by a senior post holder, or
  - a committee of the Corporation, where the decision to dismiss was made by the Chief Executive; this committee shall not include the Chief Executive, staff or student governors
- 5.5.4 The appeal hearing will be held as soon as reasonably practicable after the notice to appeal has been received. The employee will be given at least five days' notice of the appeal hearing date.
- 5.5.5 At the appeal hearing, the employee and/or Companion may state the employee's case. If the employee raises new concerns in their appeal, the College may need to carry out further investigation.
- 5.5.6 If the chosen Companion is unavailable on the date of the appeal hearing, the employee may delay the proceedings once by up to five working days to enable the chosen Companion to attend. The location and timing of any alternative hearing should be convenient to both the employer and the employee but should not unduly delay the process.

- 5.5.7 The appeal hearing may be a complete re-hearing of the matter or it may be a review of the fairness of an original decision including any new information. This will be at the College's discretion depending on the circumstances of the employee's case.
- 5.5.8 If the appeal is against the dismissal, the date of which dismissal takes effect will not be delayed pending the outcome of the appeal. However, if the appeal is successful, the employee will be reinstated with no loss of service or continuity or pay.
- 5.5.9 At the appeal hearing, the original decision will be reviewed but it cannot be increased. The College may confirm the original decision, revoke the original decision, or substitute a different penalty.
- 5.5.10 The employee will be notified in writing of the appeal decision, usually within one week of the appeal hearing. This is the College's final decision and there is no subsequent right of appeal within the College.

## 5.6 The role of a Companion at meetings

- 5.6.1 The employee's chosen Companion has the right to address the meeting to put the employee's case, sum up the case and respond on the employee's behalf to any view expressed at the meeting. The Companion may also confer with the employee during the meeting. However, there is no requirement for the employer to permit the Companion to answer questions on behalf of the employee or to address the meeting where the employee indicates that they do not wish this.

## 5. Persons Responsible for the Policy/Procedure (delete as appropriate)

Director of HR

## 6. Linked Policies and Procedures

Grievance Policy and Procedure

Disciplinary Policy and Procedure

## 7. Change log

Date	Version	Details of change	Review / Revision by	
			Name	Title
Feb 2019	1.0	Full policy reviewed in consultation with JCNC	Emma Kilby-Brooks	HR Manager
Jan 23	1.1	Change of Job Titles	Emma Kilby-Brooks	Director of HR

Document Name: Performance Support  
(Capability)

Applicable to: All Employees

Approved by: Executive

Accessible to: All Employees

6 of 6  
Version 1.0

Document Ref: **HR-P002**  
Last review: January 2023  
Next review: January 2026  
Owner: HR

*This document is the property of Loughborough College.  
Any reproduction, even partial, is prohibited without prior written agreement.  
Document uncontrolled when printed*