

Supporting Performance Improvement Policy

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Policy/Procedure Development Overview

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¹ This is a regionally agreed Policy so there is no requirement for local consultation.

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Section 1: Introduction

1. The Public Health Agency (PHA) is committed to providing the highest quality service and care to our patients and service users. In order to achieve this, we will support our employees in understanding what is required of them in their role. We are dependent on our employees performing their jobs well and in accordance with their job description and the standards expected.
2. We are committed to supporting our employees to carry out their responsibilities within an environment that encourages learning and productive, safe and supportive working practices. Our managers play a key role in ensuring employees are appropriately recruited, inducted, supported and developed in their role to ensure they deliver the highest quality of care to our patients and service users.
3. Managers are required to ensure employees are supported to improve their performance where required, and treated in line with the HSC Values. In addition, managers are required to ensure they have systems in place to enable early identification of performance concerns in the interests of all parties involved, including the employee.
4. There may be occasions when employees do not meet the required standards of performance and in these circumstances, we are committed to doing all we can to support them to improve.
5. At each stage of the procedure where appropriate we will consider whether the unsatisfactory performance is related to a disability and, if so, whether there are any reasonable adjustments that could be made to assist the employee.
6. Any employee who has concerns in relation to undertaking the duties of their post are encouraged to raise these with their manager as soon as possible so they can be supported at the earliest opportunity. The PHA is committed to supporting employees in these circumstances and will work closely with them to understand why and to offer support, encouragement, guidance and training as required to help them improve their performance and/or make changes that will help resolve concerns.

This policy has been developed in partnership with agenda for change Trade Union Colleagues. The aim of this policy is to support, encourage and develop employees to improve their performance and potential. This policy is not designed to discipline or lead to dismissal however this may be an outcome in exceptional circumstances.

Section 2: Aim and Scope of the Policy

Aim

7. It is the aim of this Policy that the PHA is a place where all employees are enabled to work and perform to the best of their ability to deliver an excellent service. The purpose of this Policy is to provide a framework for the PHA to support employees with performance concerns to achieve effective standards of work.

Scope

8. This Policy applies to all employees employed by the PHA with the exception of Medical and Dental employees who are subject to Maintaining High Professional Standards in the Modern NHS Framework.
9. This Policy does not apply in the following circumstances:
 - Where it has been established the matter is a conduct concern it will be addressed under the Regional Disciplinary Policy & Procedure.
 - Performance concerns wholly attributable to ill-health as these matters are addressed under the PHA Attendance at Work Policy and Procedure.
 - Self-employed workers contracted by other organisations (including employment agencies) who are covered by their own employer policies
 - Where an organisation has a separate procedure for probationary period employees

Section 3 Key Principles

HSC Values

10. It is important that all stages of the Supporting Performance Improvement Policy are undertaken in a way that is consistent with the HSC Values of Compassion, Openness and Honesty, Excellence and Working Together. The HSC Values provide the framework for a Just and Learning Culture which works to create an environment where employees are supported and empowered by their manager to learn and develop when needed. This approach is embedded throughout the Supporting Performance Improvement Policy to support and empower employees at each stage.

- Involve employees in decision making & recognise their positive contribution in making a difference.
- Work together to agree appropriate next steps to support performance improvement and ensure sufficient support and guidance is offered throughout.
- Work in partnership with employee representatives to support performance improvement

- Address performance concerns with support, understanding and compassion.
- Identify what support is needed by those directly and indirectly affected by the concern
- Ensure employee health and wellbeing is considered throughout.



- Explore the cause of the performance concern Identify if it is a system issue rather than an employee performance concern for example
- Identify how learning leads to improvements across the system.
- Recognise and celebrate successful performance improvements.

- Ensure employees feel comfortable and safe to speak up about their performance concerns and ask for support.
- Openness about performance improvement allows valuable lessons to be learnt to improve the service.

Early intervention and support

11. It is expected that if concerns arise regarding an employee's performance, these will be addressed at the earliest opportunity using a fair, supportive and compassionate approach.
12. It is expected that the majority of concerns will be dealt with and resolved informally between the manager and employee.

Equality

13. This Policy will be applied without any distinction to protected characteristics as defined within equality legislation. In circumstances where the employee involved has a disability, reasonable adjustments will be discussed in accordance with the Disability Discrimination Act 1995 (DDA).

Fairness

14. The application of this Policy will be consistent, prompt, impartial, reasonable and applied without discrimination. Conflict of interest at any stage should be

declared by any party involved in the Supporting Performance Improvement Process, to the appropriate manager.

- 15.** The same principles of natural justice inherent in the Regional Disciplinary Policy & Procedure will be demonstrated when dealing with an employee's performance. These principles are fairness, confidentiality, equality, natural justice and the HSC Values.

Section 4 Roles and Responsibilities

16. All HSC Employees

All HSC employees should be aware of this Policy and understand the importance of the content and adherence to it. Employees have a responsibility to:

- Undertake their duties to an acceptable standard and to seek to improve their performance where appropriate;
- Raise any concerns they have in relation to ability to undertake the duties of their post at an early stage, to their manager to ensure support is provided as soon as possible;
- Undertake induction training, statutory and mandatory training and any other development opportunities relevant to their role and the supporting performance improvement principles;
- Fully participate in any supervision meetings with their manager to enable issues to be identified and supports put in place as soon as possible;
- Actively participate in the supporting performance improvement process as required;
- Consent to a referral to Occupational Health for the PHA to obtain medical evidence to ascertain whether any performance issues might be caused by an underlying medical condition;
- Work closely with their manager to ensure any action plans agreed are implemented and reviewed as required;
- Seek clarification from their manager if there are any aspects of the above that they do not understand to enable support to be provided;

- Behave in a manner that reflects the HSC values of *working together; excellence; compassion and openness and honesty*.

17. Manager

The manager's role is to ensure employees are aware of the Policy, that it is followed, support may be sought from HR if deemed necessary and appropriate. Managers have a responsibility to:

- Create and encourage an environment that reflects the HSC values of *working together; excellence; compassion and openness and honesty*;
- Embed a culture of learning and ensure actions plans developed support the aims of this Policy;
- Lead and support employees to openly and freely raise concerns about challenges or difficulties with their work in order to improve overall performance;
- Promote openness and candour when errors or omissions occur;
- Provide an environment in which employees can achieve the standards expected of them. This includes ensuring that the standards are clear, realistic and measurable in terms of what has to be achieved and the required timescale for achievement;
- Review all factors that may have led to a performance concern to ensure that any wider system issues are addressed as appropriate;
- Ensure employees complete a corporate induction and that there is a local induction in their work area/team/department to ensure their team are fully inducted and supported in carrying out their role and responsibilities;
- Ensure employees are provided with support as required, such as peer support and on the job training;
- Ensure that where health may be considered a factor in an employee's performance, that appropriate advice and guidance is sought from occupational health;
- Ensure employees attend statutory and mandatory training;

- Ensure the job content for employees is applicable to their job description and person specification;
- Ensure regular supervision arrangements are in place to support employees;
- Ensure a high level of service is provided within their area of responsibility;
- Ensure systems are in place to identify any performance concerns as soon as possible;
- Ensure performance issues are addressed as soon as they become known in a supportive and encouraging manner;
- To lead the informal and fast track stages of the Supporting Performance Improvement Policy in line with the HSC values;
- Ensure regular communication is in place within their team;
- Ensure they actively consider their employees' health and wellbeing and that appropriate supports and/or reasonable adjustments are put in place when required;
- Maintain records of all actions taken and ensure confidentiality is maintained throughout;
- Retain all records pertaining to the Policy in accordance with the Department of Health (DoH) Retention & Disposal Schedule and Data Act 2018.

18. Human Resources

The Human Resources Department will support PHA staff at all levels in the application of this Policy. HR will:

- Provide appropriate support to managers and employees on the application of this Policy;
- Provide advice or signposting for health and well-being support where appropriate;
- Monitor the implementation and application of this Policy to ensure that all stages are managed fairly across the PHA;

- Ensure that this Policy is updated in accordance with any changes in employment legislation;
- Retain all records pertaining to the Policy in accordance with Department of Health (DoH) Retention & Disposal Schedule and Data Protection Act 2018.

19. Employee Representatives

An Employee Representative is any employee of the PHA who is an accredited representative of a Trade Union, professional organisation or staff organisation or a full time official of any of the above organisations or a fellow PHA employee. They may also be a regional representative of a recognised Trade Union. Employee representatives will:

- Provide advice and support to employees who are experiencing performance concerns;
- Ensure employees are educated on their rights under this policy;
- Work in partnership with managers and Human Resources to ensure optimum levels of an employees' performance.

An employee invited to attend any supporting performance improvement meeting has the right to be accompanied by an accredited Trade Union representative or a colleague who is also employed by the PHA. Both employees and accredited Trade Union representatives can present evidence on behalf of the employee. Employees are encouraged to engage their employee representative at the earliest possible stage to enable them to receive timely support.

Under the Section 75 equality categories, employees who require additional support to help resolve performance concerns should seek advice from their Trade Union representative or Human Resources Department.

SECTION 5: PERFORMANCE MANAGEMENT

- 20.** It is important that managers hold regular performance management, supervision or one to one meetings with their employees to help identify and address any concerns at an early stage. Regular and ongoing meetings will ensure employees are clear about what is expected of them and how they will be supported.

21. It is anticipated that the majority of performance concerns will be dealt with in an informal way through managers holding regular meetings with their employees and ensuring any additional support required is put in place.
22. Regular meetings facilitate two-way conversations and provide an opportunity to help identify and address concerns. Employees and managers are encouraged to discuss any performance concerns at the earliest opportunity to enable support to be put in place as soon as possible.
23. Performance review/supervision meetings should be held at regular intervals to review the employee's progress and performance in the role and to provide a forum for recognition and to celebrate successes, identify learning, set objectives and to agree any development needs or support required by the employee going forward.

SECTION 6: PERFORMANCE CONCERNS VS CONDUCT

24. On occasion it may be difficult to establish whether the matter relates to an employee's conduct or their performance. There should be no automatic assumption that the matter relates to a person's conduct. Employees are encouraged to be open and honest in relation to the disclosure of performance concerns to enable these to be dealt with in the most appropriate way. The PHA is committed to ensuring all employees with performance concerns are dealt with in a fair, kind and compassionate way and would encourage all employees to speak to their manager should they have any concerns.

SECTION 7: SUPPORTING DISABILITY

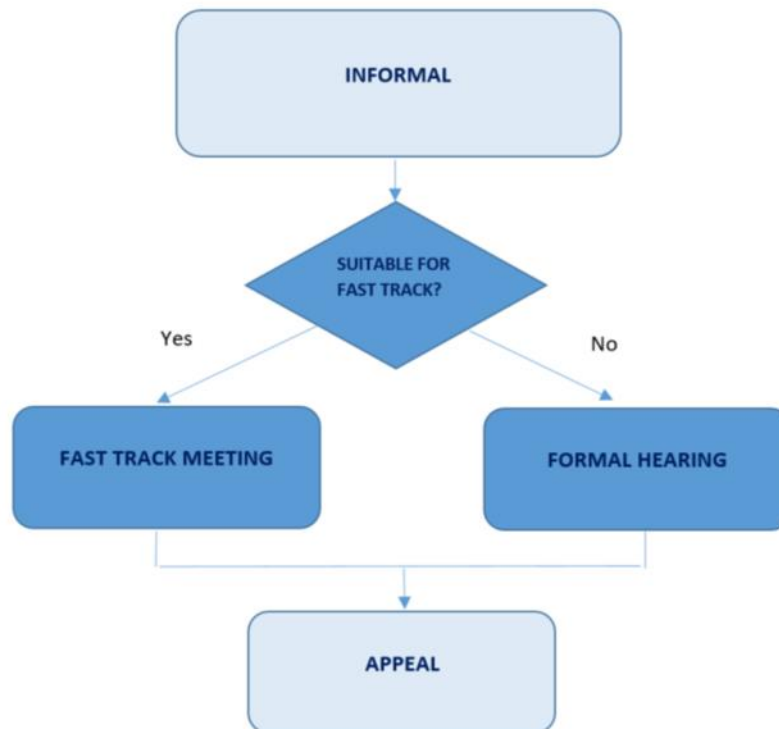
25. Should disability be considered as potentially being a contributory factor to the performance concern, the application of this Policy will be paused for consideration and consultation with HR for next appropriate stages. The following actions may be taken:
 - Referral to Occupational Health and Wellbeing;
 - Discussion with the employee and Occupational Health regarding what reasonable adjustments, if any could be (*or have been*) put in place;
 - Adjustments to the employee's job role (*if possible*) could also be considered;
 - Adjustments to the hours and/or times worked.

26. Where line management have considered reasonable adjustments and/or put measures put in place, this should be documented and the records retained securely.
27. The above list is not exhaustive. The PHA is committed to doing all they can to support employees in these circumstances. Employees are encouraged to make suggestions in relation to what reasonable adjustments they feel would help them undertake the role and the PHA is committed to considering all such requests in consultation, where necessary, with expert medical opinion.
28. It is anticipated that in the majority of cases, following advice and support from both Occupational Health and Human Resources, performance concerns will be resolved once appropriate reasonable adjustments have been agreed and put in place. If, however this is not the case, then the performance concerns will continue to be progressed under this Policy.
29. In some circumstances, it may be more appropriate for concerns to be dealt with under the Sickness Absence Policy.

SECTION 8: PROCESS FOR SUPPORTING PERFORMANCE IMPROVEMENT

30. As stated above, it is anticipated that the majority of performance concerns will be resolved through normal performance management/supervision/one to one arrangement. However, where this has not been the case, then the process below will be invoked to help support the employee undertake the duties of their post to the required standard.

Each of these steps have been described in detail below and it is important that managers, employees and their representatives familiarise themselves with all stages of the process prior to action being commenced to ensure full understanding and appropriate application. For example, all parties will need to have read and understood the fast track section to help inform decision making at the informal stage. Advice and support is available from the HR team.



Informal Stage

- 31.** This stage of the Policy should only be required where concerns have not been resolved through normal performance management/supervision/one to one arrangement.
- 32.** In addition, this stage should only be required where the manager is satisfied that the employee has received the appropriate level of training to undertake the role however despite this they have not yet reached the desired level of performance and therefore further help and support is required to enable them to reach their full potential.
- 33.** It is important to highlight that should an employee have concerns about their ability to undertake the duties of the post, they too can also request to have the matter dealt with under the informal stage.
- 34.** It is not usual for Trade Union colleagues to attend the informal meeting but their attendance must be facilitated should the employee feel this would assist them during the process.

Informal Meeting:

35. An informal meeting should be arranged with the manager and the employee to discuss concerns around performance. This discussion should cover the following:

- Highlight areas of good performance and recognising these where appropriate;
- Provide details on the specific performance concerns ensuring these are clearly outlined and understood;
- Clarify what the expected standards of performance are;
- Ensure feedback is sought from the employee and taken on board as appropriate;
- Identify any potential causes or reasons for the concerns where appropriate²;
- Discuss and agree appropriate support such as:
 - Shadowing other employees
 - Appointment of a coach
 - Dedicated time to concentrate on specific areas of work
 - Increased supervision;
- Develop and agree an action plan: SMART Objectives and the period over which these should be achieved and sustained (normally not exceeding 12 weeks) to achieve a satisfactory improvement in the employee's performance;
- Confirm what methods will be used to assess the employee's performance;
- Confirm when the performance standards will be reviewed and the fact that formal action could be taken if the required improvement is not achieved;

² It is important that appropriate attention is given to any potential cause(s) of the concern and ensuring these are addressed. For example, where performance concerns are identified as being a result of an employee having an excessive caseload then this would need to be addressed. Careful consideration needs to be given to all potential causes of concern and the impact they may have had on the employee's performance.

- Ensure the employee is advised of appropriate support from Occupational Health and employee support services as appropriate;
- Provide information on the Fast Track Process to determine if the parties feel it would be an appropriate next step.

36. It is important that all actions and solutions are agreed with the employee during the meeting where possible. Where it is not possible to reach agreement, the manager will need to carefully assess the situation and decide what solutions are appropriate in the circumstances, taking account of the employee's perspective on the matter. Advice and support should be sought from the HR team as appropriate.

37. A suitable review period will be agreed with the employee during the informal meeting. It should be noted that this should be no less than 6 weeks but normally no longer than 3 months.

Actions after Informal Meeting

38. Following the meeting, the manager will forward to the employee a summary of what was discussed and agreed. If all parties agree the fast track option is the most appropriate way to progress matters then the matter will immediately be addressed under the fast track stage (*see fast track section below – Page 15*). If, however fast track is not agreed as appropriate then the following actions will be taken:

- a. The manager must hold regular review meetings with the employee, both to provide and receive feedback on progress and to encourage improved performance. Any additional training or support required should also be discussed.
- b. At the end of the agreed review period the manager will meet with the employee for an informal review meeting and inform them that either:
 - i. They have achieved the specified levels of performance and no further discussions are required, or
 - ii. There has been a marked improvement in performance yet further improvement is required. In these circumstances the current stage may be extended for up to an additional 6 weeks, or
 - iii. There has been little, or no improvement and it will be necessary to move to the formal stage.

Fast Track Process

- 39.** It is recognised that employees may find themselves in a role that is not what they had envisaged, suited to them, or their particular strengths and skills. We recognise this is not an easy situation and have therefore introduced a fast track stage to enable the PHA to resolve this situation in as quick a way as possible. It is important to note that the fast track process can only be used if the employee, manager and HR agree it is appropriate.
- 40.** The fast-track process can be requested by any party involved in the supporting performance improvement process. As referred to above, during the informal stage, the option of fast track will be discussed to establish if it is an appropriate option.
- 41.** The fast-track process will be considered in the following circumstances:
- a) Where the employee acknowledges and recognise the performance concerns and wishes to participate in the fast track process
 - b) The employee, manager and HR must agree to use of the fast-track process
 - c) Disabilities should be recognised and support offered for making this decision where appropriate
 - d) The manager and employee have made significant efforts to try and address the performance issues
- 42.** Where all parties provide their agreement to use the fast-track process the manager will convene a fast-track meeting within 3 weeks. In circumstances where the employee has raised concerns about their manager, then another suitable manager will undertake. A representative from HR will be in attendance at the fast-track meeting. The employee will be allowed the right of representation at this meeting.
- 43.** The format of the fast-track meeting will be as follows:
- a) The manager/HR representative will provide information on the Supporting Performance Improvement Policy and, in particular, the fast-track process to ensure the employee is clear in relation to the process;
 - b) The manager will outline the performance concerns and the efforts that have been made to date to help support performance improvement;
 - c) The manager will, where appropriate, outline areas of strength the employee has displayed in their role to date;

- d) Clarification will be sought from the employee in relation to their acceptance of the performance concerns and areas of strength as outlined by their manager;
- e) The employee and their representative will be given an opportunity to put forward any comments or information they feel relevant;
- f) The employee and their representative will be asked to put forward their suggestions in relation to what they feel would be a suitable resolution;
- g) Discussion on the appropriateness of the continued use of the fast track process³;
- h) The manager will close the meeting by notifying the employee when and how they will be advised of the outcome. (*The employee should be advised of the outcome of the fast-track meeting in writing within 10 working days*).

44. The outcomes from a fast track process include, but not limited to the following:

- a) Employee remains in post with adjustments as appropriate;
- b) Employee moves to a post at the same band but with different duties to their current post;
- c) Employee moves to another post at a lower band (*pay protection does not apply*)⁴.

An employee's employment cannot be terminated under the fast track process.

45. It is expected that the use of the fast-track process will conclude the supporting performance improvement process however the employee maintains the right of appeal. An employee wishing to appeal the fast-track decision should write to the Director of Human Resources stating the grounds of their appeal within 10 working days of receipt of the letter containing the Fast-Track decision. Details on the appeal stage can be found below on page 18

³ It may be necessary for the fast-track meeting to be adjourned to enable the manager, HR representative and the employee to consider if the use of fast-track process is still appropriate. In these circumstances the case may be deemed resolved or move to the formal stage as appropriate

⁴ It may be appropriate for the PHA to refer the employee to their professional body. Protection of earnings will not apply

FORMAL STAGE

- 46.** Where performance improvement has not been achieved during the informal stage a formal hearing will be arranged to consider all facts in relation to the employee's performance to enable a conclusion to be reached. In addition, as stated in the previous section, the formal stage may also be invoked in cases where the fast track process has broken down and/or has been deemed no longer appropriate.
- 47.** The employee will be invited to the hearing in writing as soon as practicable after the conclusion of the informal review meeting. A copy of the Supporting Performance Improvement Policy will be attached to this correspondence. Employees should be given at least 14 days' notice of the hearing.
- 48.** The composition of the panel will be in accordance with Appendix 1.
- 49.** The employee's manager will be in attendance as the management representative. In circumstances where the employee has raised concerns about their manager, then another suitable manager will undertake.
- 50.** Employees are entitled to representation at the hearing by either a Trade Union representative or work colleague.
- 51.** As mentioned in previous stages, it is important that all parties involved deal with each other in a kind and compassionate way. It is not easy for an employee, or a manager to be involved in a hearing such as this, and it is therefore important that it is handled sensitively by all. The panel will have a key role in ensuring this is achieved.
- 52.** Employees and the management representative must forward to the panel and each other, any information they wish to be considered during the hearing at least 7 days in advance of the hearing. Failure to exchange documentation within this time period may result in the formal hearing being postponed.
- 53.** The format of the hearing is as follows:

 - The manager shall present the case on behalf of management and will provide the panel with all relevant information for their consideration. The panel will have opportunity to ask the manager questions during the hearing and to seek additional evidence as appropriate.

- Following conclusion of the management presentation, the employee and their representative will also have an opportunity to ask questions to the manager in relation to the case they have presented. The employee, and their representative, will then be given an opportunity to present their case to the panel. The panel will have opportunity to ask the employee questions during the hearing and to seek additional information as appropriate. The manager may also seek additional information or clarification.
- At the conclusion of the hearing the manager will also have an opportunity to make a closing statement to the panel. The hearing will close with the employee and/or their representative making their final closing statement.
- The panel may, at its discretion, adjourn the meeting in order that further evidence may be produced by either party or for any other reason. In exceptional circumstances if further relevant evidence is produced then both parties will have the opportunity to test the evidence put before the panel.

54. The following options are available to the panel (*this list is not exhaustive*):

- Employee remains in post (*either with or without adjustments as appropriate*);
- Redeployment to another role at the same band;
- Redeployment to a lower banded post⁵;
- Termination of employment on the grounds of performance.

55. Following consideration of all the evidence presented the panel will seek to write to the employee within 7 working days to advise of their decision. The employee will be advised of their right of appeal.

APPEAL

56. If dissatisfied with the outcome of either the fast track or formal stage, the employee will be entitled to appeal the decision. The purpose of any appeal would be to consider whether the decision reached was fair and reasonable under the circumstances.

57. An employee who wishes to lodge an appeal should write to Director of Human Resources stating the grounds of their appeal within 10 working days of receipt of the letter informing them of the decision.

⁵ Protection of earnings will not apply

58. The Appeal Panel will comprise of two members from the PHA who have had no previous involvement in the case. The composition of the appeal panel will be in accordance with Appendix 1.
59. The Appeal hearing will be a full rehearing of the case.
60. The employee will be entitled to be represented at this appeal. The manager will be present during the appeal to advise on the management action taken to assist the employee to reach the required standards of performance. The appeal will be a full re-hearing and will follow the same format as the formal hearing.
61. Employees and the management representative must forward to the appeal panel and each other, any information they wish to be considered during the appeal hearing at least 7 days in advance of the hearing. Failure to exchange documentation within this time period may result in the hearing being postponed.
62. Following consideration of all the evidence presented the appeal panel will seek to write to the employee within 7 working days to advise of their decision.
63. The Appeal decision will be final. There is no further right of appeal.

SECTION 9: SICKNESS DURING THE SUPPORTING IMPROVEMENT PERFORMANCE PROCESS

64. If an employee has periods of sickness absence whilst working through the Supporting Performance Improvement process, then the timescales agreed should be extended to take these absences into account.
65. Any sickness absence should be managed in line with the PHA Attendance at Work Policy & Procedure.
66. Following a period of absence, and in circumstances where an employee has been redeployed, the continuing need for review under this Policy should be considered and continue to apply if relevant to the new post.

SECTION 10: REFERRAL TO PROFESSIONAL BODY / DISCLOSURE & BARRING SERVICE

- 67.** Where appropriate, the employee will be advised that in accordance with the requirements of their regulatory body / Disclosure & Barring Service, a referral will be made by the relevant Director for consideration.

SECTION 11: EQUALITY AND HUMAN RIGHTS

- 68.** The equality and human rights statutory obligations have been considered during the development of this Policy.

SECTION 12: REVIEW OF THE POLICY

- 69.** This Policy should be reviewed periodically in consultation with recognised Trade Union side representatives via the HSC (NI) Joint Negotiation Forum.

APPENDIX ONE

LEVEL OF STAFF	FORMAL STAGE	APPEAL
Staff at level 2 (Director)	Level 1 / Level 2	Chair / Level 1
Staff at level 3 (Assistant Director/Co-Director)	Level 2	Level 1
Staff at level 4 (Service Manager)	Level 3	Level 2
Staff at level 5 (Assistant Service Manager)	Level 4	Level 3
Staff below level 5	Level 5	Level 4

