PERFORMANCE MANAGEMENT PROCEDURE
FOR BIRKBECK EMPLOYEES

Policy Statement
Our reputation and success as a College relies upon the quality of our services and this is largely dependent upon the performance of our staff. We are committed to developing and improving the performance and capability of our teams. This policy aims to provide a framework for managing performance concerns effectively.

Managing performance is a continuous activity and measures how well individuals are performing in relation to the College’s standards, assessment and Progress Development Review (PDR) processes. Performance is managed through the College’s existing review and support mechanisms, including PDRs, meetings/one-to-ones, learning, development, coaching and mentoring.

1.0 PURPOSE OF THE PROCEDURE
The following procedure outlines the processes and management methods to be used for managing performance issues and to help employees improve their performance to meet the standards required.

Performance issues may be due to lack of ability, skill or experience, or to a lack of adequate training and/or supervision. It is expected that the majority of performance management issues can be resolved informally through discussion and co-operation. The College and its employees should always seek to resolve issues at as local a level as possible and via informal methods in the first instance. Employees will be given reasonable support and encouragement to reach a satisfactory level of performance. Where an issue cannot be resolved informally, it should be pursued through the formal procedures.

If it is established that issues are related to conduct i.e. employee’s attitude or negligence, rather than performance, the Disciplinary and Dismissal Procedure should be followed. If it is established that issues are health-related, the Sickness Absence Policy should be followed.

2.0 APPLICATION
This procedure applies to all employees who have successfully completed their probationary period, with the exception of Academic staff who are covered by the College Charter and Statutes, agency workers or those with a contract for services.

3.0 PRINCIPLES
Informal action will always be considered in order to resolve issues. Formal action will not be taken until informal performance management has been fully supported.

In situations where a formal sanction may be the outcome, the employee will be advised in writing of the nature of the issues and will be given the opportunity to state his or her case before any decision is made. Employees will be given copies of documentation and other material to provide clear examples of work not undertaken to an acceptable standard.

At all stages of the formal procedure the employee will have the right to be accompanied by a trade union representative or work colleague from within the College. Further details on companions at formal meetings are outlined in Appendix 1.

During the formal stages of the performance management process the person who reviews performance will normally be different from the person nominated to Chair or carry out
any subsequent performance management meeting even where the facts are clear and based on confirmed records or other evidence.

Human Resources will be involved throughout all stages of the formal performance management procedure. All cases of formal performance management action will be recorded by the Human Resources Department and monitored and reported in relation to equality and diversity.

4.0 RESPONSIBILITIES OF MANAGERS AND EMPLOYEES

4.1 Managers
Managers are responsible for ensuring their team achieve and maintain agreed standards of work performance and should:

- lead by example through their individual performance and behaviour, providing staff with clear guidance and direction;
- provide coaching and support development and continuous improvement at a team and individual level;
- use the PDR process to agree objectives for performance and development based on duties and standards outlined in the job description document, and giving constructive feedback upon performance;
- ensure required performance standards are realistic, achievable, communicated, understood and in line with the employee’s job description document;
- support staff through organisational change;
- aim to resolve issues promptly and effectively, considering the use of mediation where relevant and appropriate;
- seek advice from Human Resources on performance management;
- adhere to this performance management procedure.

4.2 Employees
Employees are expected to:

- work effectively to the agreed standards required by the College;
- adhere to the College rules, policies and procedures;
- understand the impact of their behaviour on others;
- engage with and participate in the PDR process;
- seek clarification about expectations, behaviours and rules from their manager if they are unsure about them;
- co-operate if asked to be involved in a performance management meeting.

5.0 INFORMAL PERFORMANCE MANAGEMENT
Informal performance management will often be a more effective way of dealing with unsatisfactory performance than the enactment of formal processes. Informal performance management allows time for the provision of additional training, coaching and advice to aid improvement in performance.

However, the employee should also be made aware that formal processes will be used if performance does not improve to the required standard or if any improvement is not maintained.
5.1 Informal Performance Management Meetings
Where a line manager considers that an employee’s performance is below the satisfactory standard expected they should arrange a meeting with the employee to identify the cause(s) and determine the support to be provided to improve the standard of work. This should be a two-way discussion, aimed at highlighting and exploring the perceived shortcomings in performance and encouraging improvement to the expected standards. This discussion should be based on the employee’s job description and person specification. Any objectives and/or work plans agreed as part of ongoing Progress and Development Reviews may also be used to support the discussion.

Feedback should be constructive, with the emphasis on finding ways for the employee to improve and for the improvement to be sustained. This may entail the agreement of additional support, guidance and/or training plans.

The line manager should listen to what the employee has to say about the issue. The discussion may highlight evidence that there are underlying causes such as personal problems or issues wider than the matter at hand that need to be resolved independently. Should the meeting establish that the performance problems are related to the employee’s personal or domestic life, the necessary counselling/support will be offered. Should the discussion during the meeting result in a decision that the standards expected are not reasonably attainable, the standards will be reviewed.

If it becomes apparent that the matter may be more serious and/or significant new information comes to light, the meeting should be adjourned for further investigation. If it is decided that the performance issue emanates from a change in the College’s standards or working methods, those standards or working methods will be explained to the employee. Any necessary supervision, training or retraining will be offered to obtain conformity with the standards or to achieve the required skill level.

Where improvement is required, the manager should make sure the employee understands and is committed to reaching the required standard, how performance will be reviewed, and over what period. The content, agreed action and the outcome of the meeting will be recorded in writing to the employee concerned.

5.2 Timescales for Improvement
The length of the review period will depend on the gap in performance identified. It is recommended that improvement via informal performance management should be planned over a minimum period of 6 weeks. An appropriate timescale will be agreed with the employee to allow sufficient time to improve in the areas indicated taking into account any additional training or coaching needed and allowing time for the skills/knowledge acquired to be applied to work.

5.3 End of Informal Review period
At the end of the informal review period a further meeting will be held between the manager and the employee. The outcome of this meeting will be one of the following:

- if the required improvement has been made, the employee will be told of this and encouraged to maintain this improvement; or

- if some improvement has been made but the standard has not yet been met, the informal review period may be extended; or

- if there has been little or no improvement in performance, the issues will be progressed using the formal performance management stages.
6.0 FORMAL PERFORMANCE MANAGEMENT STAGES
The employee will be invited to attend a formal performance management meeting and this will be confirmed in writing. The notification will contain sufficient information about the performance issue and will confirm the employee’s right to be accompanied to the formal meeting.

Normally a minimum of 5 working days written notice will be given to attend a formal performance management meeting. If the employee’s companion is unable to attend the meeting, it will normally be rearranged within 5 days of the original date of the meeting.

6.1 Formal Performance Management Meetings
The meeting will be conducted by an appropriate manager who will act as the Chair. This will not be the employee’s line manager who will have undertaken the informal stage meeting(s). The meeting will also include a representative from Human Resources.

The employee’s line manager will attend the meeting to set out the performance concerns to the employee, providing examples and outlining any support, guidance and training already offered/undertaken, and including any evidence from witnesses. The employee will have the opportunity to state their case fully and respond to the points raised. The employee will also be given a reasonable opportunity to ask questions and present examples of their work as evidence. They will have the opportunity to call witnesses where advance notice to the Chair has been given and raise points about any information provided by any of the witnesses, but not to cross-examine them.

Prior to making a decision, the performance management meeting will be adjourned to consider all relevant information. The meeting may also be adjourned to clarify or gather additional information. If new information is gathered or clarified the employee will be advised of the new information and given a reasonable time to consider it prior to the meeting being reconvened.

At the conclusion of the meeting, the Chair in consultation with the representative from Human Resources, will decide whether or not formal action is justified. If an employee fails to attend a formal performance management meeting without good reason, a decision on the issue may be taken in the employee’s absence. When the Chair is satisfied that all relevant information has been properly considered the decision, including any sanction, will be communicated to the employee. If no formal action is taken either because performance is satisfactory or there has been sufficient improvement in performance, the employee will be told of this and encouraged to maintain the performance level.

6.2 Written Performance warnings
The outcome of the formal performance management meeting may be a written warning. There are two levels of warnings issued under the formal performance management procedure; a first formal written warning and a final formal written warning. Any warning imposed should be proportionate to the severity of the case and should be applied consistently. No employee will be dismissed for a first incident of underperformance.

A formal performance warning will be in writing and will set out the nature of the performance issues and the improvements required together with the timescales and details of any training and support to be provided.

The written warning will also inform the employee that performance will continue to be monitored during the period of the warning in line with the targets and standard of work established, and the support put in place.
The length of the review period will depend on the gap in performance identified. It is recommended that improvement should be planned over a minimum period of 6 weeks. An appropriate timescale will be agreed with the employee to allow sufficient time to improve in the areas indicated taking into account any additional training or coaching needed and allowing time for the skills/knowledge acquired to be applied to work.

If performance continues to fall below the required standard at the end of the review period, or at any point during the remainder of the warning, a subsequent performance management meeting will be arranged which may result in a final written warning being issued.

However, if the employee’s performance significantly falls below the required standard, it may be appropriate to move directly to a final written warning. This may occur where the employee’s actions have had, or are liable to have, a serious or harmful impact upon the College.

A copy of a written warning will be kept by the College but will be disregarded for performance management purposes after a specified period, up to a maximum of 12 months, subject to the employee achieving and sustaining satisfactory performance.

6.3 Final Performance Management Meeting
After a final written warning is issued, if performance falls below the required standard at the end of the review period, or at any point during the period of the warning, a final performance management meeting will be arranged. The meeting Chair, where possible, will be senior to the Chair of the previous performance management meeting and in all cases will not have been previously involved in the case.

The meeting will follow the format as outlined in 6.1. A potential outcome of this may be dismissal or some other action short of dismissal, for example a transfer to a different work area or different working pattern. The decision to dismiss will only be taken by a senior manager of the College, for example the College Secretary or nominee, or the School Manager or Executive Dean as appropriate. If the decision is made to dismiss, the employee will be provided in writing with reasons for dismissal and the date on which the employment will terminate. This will include the right of appeal.

7.0 APPEALS
All employees have a right of appeal against any formal warnings issued under the performance management procedure. An appeal must be made in writing to the Head of HR Services within 10 working days of the date of the warning letter.

Grounds for appeal are where the employee believes:
• The warning to be unfair or unreasonably severe; or
• Substantial new and relevant information related to the case is available; or
• There is evidence indicating the procedure was not properly applied.

Appeals will be heard without unreasonable delay. The appeal will be Chaired by a senior manager who, where possible, will be senior to the Chair of the performance management meeting. In all cases the nominated Chair will be a senior manager from a different Department who has not previously been involved in the case. The meeting will include a representative from the Human Resources who will also be a different person from the person who participated in the previous meeting.
The outcome of the appeal may be to uphold or reject the appeal; modify or remove the warning where justified. Employees have a right to be accompanied at appeal meetings. Employees will be informed in writing of the outcome of the appeal meeting within 5 working days of the meeting. The decision of the Chair of the appeal meeting is final.

8.0 ALTERNATIVES TO FORMAL ACTION
If it becomes apparent that the employee may not be capable of achieving the required level of performance, alternative solutions should be discussed, for example: transferring to other employment within the College utilising the skills and experience of the employee; early retirement; or leaving the College’s employment.

There is no obligation for the employee to agree to an alternative course of action and the final decision will rest with the employee. However, the employee should be made aware of the alternative solutions.

Where the employee is prepared to accept an alternative solution this must be arranged as quickly as possible as such periods of uncertainty are de-motivating for the individual concerned and for those around them. Transferring to another position in the College is subject to availability of a suitable alternative position and may involve a trial period.

9.0 SPECIAL CASES
Where a performance management case is being considered against an employee who is a trade union representative, the normal performance management procedure will be followed. Discussion of the matter at an early stage will take place with an official employed by the union, after obtaining the employee’s agreement and prior to any proposed performance management meeting. The employee can be accompanied by an official of the union.

10.0 MEDIATION
In some cases, an independent third party mediator may help resolve disagreements over performance issues. Further details on mediation are contained in Appendix 2. Mediation will be proposed only where appropriate and not as a means of absolving managers of their responsibilities.

Mediation is voluntary and will only take place with the agreement of both parties. Whilst mediation may be advocated by the College, with fuller explanation and encouragement given to its use, there will be no coercion and no punitive consequences to any party as a result of choosing not to undertake this route to resolution.

11.0 OVERLAPPING GRIEVANCE AND PERFORMANCE MANAGEMENT CASES
Where an employee raises a grievance during a performance management process, the performance management process may be temporarily suspended in order to deal with the grievance. Where the grievance and performance management cases are related, it may be appropriate to deal with both issues concurrently. Depending on the nature of the grievance, the College may need to consider bringing in another manager to consider the grievance process separately but concurrently.

12.0 RELATED DOCUMENTS
- Dignity at Work and Study Policy
- Sickness Absence Policy
- Grievance Procedure
- Performance Management & Dismissal Procedure
• Progress & Development Review
• Acas Code of Practice – Performance Management & Grievance Procedures
• Acas Advisory Booklet – How to Manage Performance
• Charter and Statutes

**Policy Review**

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Appendix 1

Companions at Formal Meetings

1 Right to be Accompanied
Employees have the right to be accompanied by a companion to formal performance management meetings where the resultant action could be:

- a written warning being issued; this could be either first or final warning;
- some other action or sanction;
- the confirmation of a warning or some other action, for example at an appeal meeting.

The chosen companion may be a work colleague or a trade union representative. External legal advisors are not permitted to be involved in internal College performance matters.

2 Conflict of Interest
Although the employee has the right to be accompanied by a companion at a formal performance management meeting, there may be situations where a conflict of interest arises. For example, it would not normally be reasonable for employees to insist on being accompanied by a companion whose presence would prejudice the meeting or who might have a conflict of interest.

Advice and guidance from Human Resources should be sought where a conflict of interest is evident.

3 Role of the Companion

It is important that the role of the companion is clearly understood.Outlined below are examples of activity that will help this understanding.

3.1 The companion can:

- address the meeting;
- present and summarise the case on behalf of the employee;
- respond to any views expressed;
- confer with the employee during the meeting;
- request adjournments.

3.2 The companion cannot:

- answer questions on the employee’s behalf;
- address the meeting if the employee does not wish it;
- prevent the representative of the College from explaining the case.
**Mediation**

An independent third party or mediator can sometimes help resolve performance management issues. Mediation is a voluntary process where the mediator helps two or more people in dispute to attempt to reach an agreement. Any agreement comes from those in dispute, not from the mediator. The mediator is not there to judge, to say one person is right and the other wrong, or to tell those involved in the mediation what they should do. The mediator is in charge of the process of seeking to resolve the problem but not the outcome.

Mediation is appropriate in specific circumstances. It is not a means to absolve managers of their responsibilities. Mediators may be employees of the College who are trained and accredited by an external mediation service to act as internal mediators in addition to their normal jobs. Alternatively, they may be from an external mediation provider. They can work individually or in pairs as co-mediators. Where mediation is used during a performance management procedure, the formal process will be temporarily suspended pending the outcome of the mediation.

There are no hard-and-fast rules for when mediation is appropriate but it can be used:
- for conflict involving colleagues of a similar job or grade, or between a manager and a member of their staff;
- at any stage in the conflict as long as any ongoing formal procedures are temporarily held in abeyance;
- to rebuild relationships after a formal dispute has been resolved;
- to address a range of issues, including relationship breakdown; personality clashes; communication problems; and minor infringement of the Dignity at Work and Study policy.

In some situations, the combination of performance management and grievance issues can become blurred.

The College may prefer to tackle the underlying relationship issues by means of mediation. In such cases the manager of the manager may be called to intervene and to facilitate agreement as to the appropriate course of action.

Mediation may not be suitable if:
- the grounds for the performance management case are manifestly clear and mediation would serve no useful purpose;
- used as a first resort, because people should be encouraged to speak to each other and talk to their manager before they seek a solution via mediation;
- it is used by a manager to avoid their managerial responsibilities;
- a decision about right or wrong is needed, for example where there is possible criminal activity;
- an individual is raising a complaint under the College’s Dignity at Work and Study policy that warrants formal investigation;
- the parties do not have the power to settle the issue;
- one side is completely intransigent and using mediation will only raise unrealistic expectations of a positive outcome.