



IMPROVING PERFORMANCE POLICY (CAPABILITY)

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1. Introduction

- 1.1 Reach South Academy Trust (the Trust) is committed to ensuring that issues of performance are dealt with in a fair and consistent way across the Trust.
- 1.2 This policy has been consulted on with the recognised staff unions through the Reach South National Joint Consultative Committee.
- 1.3 This policy does not form part of your employment contract and the Trust may update it at any time in consultation with Trade Unions.
- 1.4 This policy covers the area of capability in relation to performance only.

2. Scope

- 2.1 This policy applies to all staff with an employment contract with the Trust. In the case of Early Career Teachers, the appropriate body will need to be notified when this policy is invoked, and the induction tutor will follow this policy to support the employee.
- 2.2 In this document the term, line manager is used to describe any employee with managerial or supervisory responsibility for other staff.
- 2.3 This Policy should not be used in cases of alleged misconduct such as where an employee's failure to perform is due to an act of omission, or a willful refusal to work satisfactorily. In this circumstance, the Disciplinary Policy should be used.

3. Purpose and Principles of the Policy

- 3.1 It is recognised that from time to time an individual's performance or capability may fall below the standards expected of a role. It is, therefore, important that the Trust has a procedure in place which sets out how it will consider and deal with unsatisfactory performance due to issues identified with level of capability so that staff are given appropriate support to help them improve their performance.
- 3.2 The purpose of the policy is to address and resolve problems in capability at the earliest possible stage, in a supportive way that takes account of individual circumstances, whilst the employee continues to carry out their role, so that the employee's performance is given the opportunity to improve, and the problem resolved.
- 3.3 The Trust expects this to be carried out fairly and consistently across the Trust.
- 3.4 For the purposes of this policy, issues identified with level of capability is defined as a situation in which an employee fails consistently to perform their duties to a professionally acceptable standard. Staff will not be placed on formal improving performance procedures unless their performance is having a significant impact on the Trust's ability to deliver education to students or promote their health and welfare. A failure to meet objectives/targets under the Trust's performance development framework process alone will not be enough to warrant a referral to improving performance procedures.
- 3.5 The procedure documented in this policy is designed to help and encourage all staff to achieve and maintain acceptable standards of work performance. However, at the conclusion of the process, if those standards are not met and maintained, at its extreme, this process may lead to dismissal upon the grounds of poor performance capability.
- 3.6 The formal stage of this policy will not be implemented unless a performance improvement plan has been in place for an agreed period and the employee has been provided with at least eight working weeks of support for their performance to improve under the process.

- 3.8 This policy is not intended as a substitute for good management and robust employment practices such as the on-boarding of new staff/newly promoted staff. Generally, performance should be discussed regularly as part of the employee's supervision with any performance issues being identified and addressed early. Early identification of problems will help to avoid formal procedures, however, there will inevitably be cases where a more formal and structured approach is necessary through this policy.
- 3.9 Timescales should be adhered to wherever possible under the policy, however, where there is a valid reason and there is mutual agreement, timescales can be varied. However, there should not be unreasonable delay in undertaking the procedure and staff should be given reasonable time to address the concerns raised.

Equality and Diversity Statement

- 4.1 The Trust is committed to fairness, equity and inclusion and values diversity in all aspects of its work as a provider of education and as an employer of people. We constantly strive to build a workforce that is representative of the community it serves. This policy is implemented in accordance with the Equality Act 2010 including the consideration of reasonable adjustments where possible.
- 4.2 The Trust is committed to eliminating all forms of discrimination on the grounds of age, disability, gender reassignment, marriage / civil partnership, pregnancy maternity, race, religion or belief, sex and sexual orientation in the provision of our services and in recruitment and employment. This enables an environment that is characterised by dignity and respect, which is free from harassment, bullying and victimisation.
- 4.3 If the capability issues arise from a disability under the Equality Act, the Trust has a duty to consider reasonable adjustments in the workplace. In these cases, managers are advised to seek guidance from People Team representative. It may be advisable to also seek professional advice through Occupational Health or another appropriate advisor and the employee will be expected to co-operate fully with this process.

5. Roles and Responsibilities

5.1 Each Employee has a responsibility to:

- Comply with Trust policies and procedures.
- Carry out their job to the standard that is expected of and required for the role and grade.
- Understand the impact of their job performance on colleagues, the quality of education to students, impact on customers and the wider Trust.
- Work towards achieving any objectives as agreed with their line manager and seek clarification of expectations, tasks, objectives and behaviours with their line manager if they are unclear about them.
- Identify to their line manager at the earliest opportunity, any issues that may impede their ability to perform to the required standards.
- Co-operate with their line manager to help improve any aspects of their work and performance which are considered to be unsatisfactory.
- Attend meetings to discuss any aspects of their performance which are considered unsatisfactory as requested to do so.

5.2 Line Managers have a responsibility to:

- Set out clear expectations of performance and what is necessary to achieve that performance.

- Feedback constructively to staff on their performance as soon as possible after that performance has occurred, praising good performance and identifying where performance is below required standards.
- Actively support, guide and train their staff to enable them to effectively fulfil the duties required of them, as defined by the job description.
- Discuss and agree any changes to the job role and job description with the individual.
- Communicate realistic and measurable standards of performance and ensure that each individual understands what is required of them and regularly review these standards and the employee's performance.
- Identify where performance is not satisfactory at the earliest possible opportunity.
- Take action promptly where performance issues are identified, to investigate the root causes of the performance issue(s) and to meet with the employee, being clear about the required improvement, the relevant timescales and any support or intervention to assist improvement and document this in writing.
- To manage staff whose performance is below the required standards of their post in line with this policy and with advice from a People Team representative.

5.3 **The People Team** are available to provide advice and guidance on the application of this policy. People Team advice should always be sought prior to issuing any formal improvement notice to ensure a consistent approach. A representative from the People Team will attend meetings at the formal stages of this process.

6. Flexibility in HR Procedures

- 6.1 Cases of incapacity due to ill health are normally dealt with under the Trust's Managing Attendance Policy (ill Health). However, in some circumstances, two or more policies may apply to a situation. In these circumstances the most appropriate procedures will be determined by the manager with guidance from the People team using the principles of ACAS best practice and employment law. This decision will be reached following discussion with the employee and/or their representative, however, the final decision of the most appropriate process will remain with management. The aim should be to incorporate the essential elements from each procedure but minimise the number of meetings and correspondence to the benefit of all parties to resolve and manage issues promptly.
- 6.2 In cases where it is determined that the performance of an employee is affected or caused by health issues, the line manager should consider whether it is possible to adjust their working conditions or arrangements in light of these issues on a temporary or longer-term basis in line with the Trust's Managing Attendance Policy (Ill health).
- 6.3 In matters where there are serious concerns in performance and the employee's length of service is less than twelve months with the Trust, the Trust reserves the right to escalate the process straight to the formal stage.
- 6.4 It may be that during the improving performance process, the manager wishes to change the policy under which they are reviewing the employee's standard of work. What initially presented as a capability issue may reveal itself to be a conduct issue which would require a different process (Disciplinary Policy P1). Decisions about any change in policy and at what stage of the process it may be appropriate to enter will be taken with proper consideration of the facts as they appear at the time and with advice and guidance from the People Team.

7. Right of Accompaniment

- 7.1 Staff have the right to be accompanied and/or represented by a trade union representative or by a work colleague at the formal stages of the process. However, in some circumstances, consideration will be given to allowing a employee to be accompanied at the informal stages if they should request this. In such cases, a member of the People team may also attend.
- 7.2 The representative or work colleague may address the meeting and /or interview, and confer with the employee, but may not answer questions on their behalf.
- 7.3 Staff should make their own arrangements to be represented or accompanied. Where the chosen representative or colleague is not available at the proposed time and date of a meeting, the employee may propose an alternative date within five working days of the original date. This may be extended in exceptional circumstances. The rescheduled meeting will not cause any unreasonable delay to the process.
- 7.4 Throughout the procedures, wherever possible, the time and date of meetings should be agreed with the employee and their representative.
- 7.5 Where any performance process under this policy is being considered in respect of a recognised trade union no action shall be taken until the matter has been discussed by the Line Manager with a People Team representative in accordance with the Trust's Trade Union Recognition and Facilities Agreement, and with an appropriate official of the trade union.

8 Stage at which the Improving Performance Process is Entered

- 8.1 Under normal circumstances, the process will be entered at the informal stage. The stages will be undertaken in order until the employee is able to either exit the process through improved performance, or where a Final Performance Meeting is held.
- 8.2 If an individual has been on leave from the organisation for an extended period, they will re-join the Improving Performance process at the stage where they left it. This will include leave such as maternity leave and sickness absence (although the Improving Performance process will not re-commence until after any phased return is completed).
- 8.3 Staff may also enter the process at an escalated level if within twelve months of their start date with the Trust or within 12 months of a new role in the Trust. They may enter the process at the formal stage, up to and including the Decision Meeting.
- 8.4 Staff may also enter the process at an escalated level if they are under an active Formal improvement notice or there is a pattern of repeated review periods and spent improvement notices and it is clear that performance is not being sustained at the required level.

9. Flow Chart of Process

- 9.1 The process of improving performance is a cyclic process of "plan, do and review" with this structure being repeated through the process, however, the focus on content of each cycle will depend on the circumstances of the performance that needs improving. To support managers and staff in understanding the different stages of the process, a flow chart can be found in **Appendix 1**.

10. Informal Stage - Improving Performance Process

- 10.1 Before consideration is given to entering the formal stages of this process, where an individual who is not meeting required standards, this should be discussed informally between the line manager and the employee. It may also be appropriate to have a conversation with the employee about why the required standards have

not been met, and the line manager will be mindful of any personal problems the employee may currently have and offer or signpost support.

- 10.2 The informal improving performance process will be tailored to meet the performance needs of the individual employee.

- 10.3 Informal Performance Improvement Plan (PIP)

At the informal meeting, an Informal Performance Improvement Plan will be agreed between the line manager and employee with clear objectives and discussions to determine what support is required to meet these objectives and a clear timeline of support is also documented. See **Appendix 2** for the Informal Performance Improvement Plan template.

- 10.4 It is essential that a line manager provides a clear explanation to the employee of the expectations of the role and that they explain where the employee is not meeting such expectations. It may be helpful to use the job description and focus on the job purpose and key duties and responsibilities, whilst ensuring the individual understands the key objectives of the service. The line manager may wish to refer to other performance-related documentation such as teaching observations or school/Trust policies and procedures. In the case of teachers, the Teachers' Standards should be referred to and included in the plan.
- 10.5 As part of the ongoing support, subsequent review meetings and other support will be determined in frequency and nature by the needs of the employee. Conversations at such meetings should be noted and kept on file. However, it is not anticipated that the informal process will exceed eight working weeks in total.
- 10.6 As a supportive measure, the manager may need to offer closer supervision to the employee, address training needs, resolve problems in the organisation of work or address communication issues. These additional management techniques are designed to be implemented in the short term only, in order that the employee's work can improve. Where additional support techniques are required permanently (except where the pay grading of the role prescribes it) this is an indication of where the employee is not meeting the required standards of performance.
- 10.7 An appropriate time-frame for making the required improvements will be agreed between the line manager and employee so that the employee is made aware of the date by which the improvements must be instilled in their practice. When it is clear that an employee is not reaching expectations, they should be informed that the consequence of this will be to enter the formal improving performance process.

11. Formal Stage - Implementing the Formal Improving Performance Process – Initial Meeting

- 11.1 If the line manager engages with the employee in the informal process to improve performance, and if the improvements are not achieved and/or deadlines for objectives are not met, it may be necessary for the line manager to consider implementing the formal improving performance process.
- 11.2 Where formal action is necessary, the manager will write to the employee advising them of the concerns and informing them that they are required to attend an Initial Meeting. The letter should confirm the details of the formal meeting (date, time, venue, who will be in attendance etc.), the possible outcomes of the meeting, the employee's right to be accompanied, the timescale for them to submit any documentation to be considered and that the meeting may take place in the employee's absence if they fail to attend without providing a satisfactory reason. A copy of the Informal Performance Improvement Plan and associated documents and a copy of this policy should also be sent to the employee. The employee will be given at least five days' notice, in writing, of the meeting.

11.3 At the Initial Meeting, the manager must:

- tell the employee where their performance is not meeting the required standards and outline what these are. The manager will be required to provide clear evidence of the issues/concerns raised.
- confirm what support has been put in place to assist the employee and explore any further options which may support them.
- give the employee the opportunity to respond and advise of any issues preventing them from meeting the required standards, including any mitigating factors.
- carefully consider the employee's response.
- give clear guidance on the improved standard of performance needed to ensure that the employee can be removed from formal procedures at the earliest opportunity (this may include the setting of new reasonable and achievable objectives focused on the specific areas of improvement that need to be addressed, any success criteria that might be appropriate and the evidence that will be used to assess whether or not the necessary improvement has been made).
- discuss with the employee the possibility of redeployment to another role (if relevant).
- seek to agree with the employee and their representative the support that will be available to help the employee improve their performance. If no agreement is reached, then the line manager will determine the nature of the support. The employee may be offered a mentor for the duration of informal and formal support who will provide pastoral support.
- Support may include training or the temporary adjustment to duties or responsibilities. Support will always be constructive and not limited to monitoring or observations because the Trust recognises that monitoring and observations are not supportive measures.
- Set out the timetable for improvement and explain how performance will be monitored and reviewed. The timetable for this will depend on the circumstances of the individual case. In this Trust, the standard set review period is normally four weeks, however, in exceptional circumstances it could be up to six weeks. This would follow discussion and the seeking of agreement from the employee.
- The review period will be reasonable and proportionate and should provide sufficient opportunity for an improvement to be made. The criteria and timing for measuring the success of the new target/s should also be clear and explicit, in addition, there should be a review towards the progress of the targets at least at the half-way-point of the time period allowed or sooner.
- Agree the date of the Decision Meeting.
- The employee will also be informed formally that, in the worst case, if performance does not improve and there are no other alternatives, termination of employment may result.
- Complete a Formal Performance Improvement Plan (see **Appendix 3**), that details the concerns raised, support in place the agreed timescales for improvement and review.
- The manager will also inform the employee that they have been placed on a Formal Improvement Notice for the duration of the formal process.

11.4 At the start of the meeting, those present will be asked their consent to a digital recording of this meeting. The purpose of this recording will form the record of the meeting and a copy will be sent to all parties along with an outcome letter and the agreed Formal Performance Improvement Plan within five working days of the

meeting. This letter will also contain details of the Decision Meeting (date, time, location) and possible outcomes of this meeting.

12. Decision Meeting

- 12.1 At the end of the set review period the line manager will meet with the employee to formally review their performance against the Formal Performance Improvement Plan in accordance with the agreed timeframe and actions.
- 12.2 At the meeting, the line manager must:
- Discuss the details of the Formal Performance Improvement Plan including confirming the status of the objectives set and the support/training provided.
 - Give the employee the opportunity to respond and discuss any issues preventing them from meeting the required standards, including any mitigating factors.
 - Carefully consider the employee's response and any documentation provided.
- 12.3 In order for an employee to exit the formal improving performance process, they must have completed all the objectives agreed, and made every improvement required. An individual will also need to demonstrate a normal level of autonomy for the role, as well as the expected quality and quantity of work.
- 12.4 An outcome should be made after all the facts and information from the employee have been considered. The line manager should adjourn the meeting briefly to consider the appropriate action before delivering the outcome to the employee.
- 12.5 The outcomes available are:
- **No Further Action** - If the line manager is satisfied that the employee has made sufficient improvement, the formal procedure will cease. The employee should be informed that the Formal Improvement Notice will remain in place and if any similar concerns arise within the next twelve months a further formal improving performance process will be convened.
 - **Further support** - If some progress has been made and there is confidence that more is likely, a further monitoring and review period will be set for no more than four weeks, which will be followed by a Decision meeting as outlined in this section.
 - **Final Performance Review Meeting** – if there is no improvement in the employee's performance then the matter will progress to a Final Performance Review Meeting and the employee will also be informed that that if there are no other alternatives, termination of employment may result.
- 12.6 At the start of the meeting, those present will be asked their consent to a digital recording of this meeting. The purpose of this recording will form the record of the meeting and a copy will be sent to all parties along with an outcome letter and any associated documents within five working days of the meeting.

13. Final Performance Review Meeting

- 13.1 Staff must be informed of the Final Performance Meeting date in writing at least 10 working days before the meeting is due to take place. Copies of any relevant documents will be included with the letter.
- 13.2 The letter will indicate that termination of their contract, due to poor performance (capability) owing to a fundamental failure to meet the contractual required level of performance for their role, is an option.
- 13.3 The meeting must be chaired by a manager who has the authority to dismiss i.e. Headteacher. In some cases, this could be the manager who led the process or an independent manager. The manager will review the overall performance process and the support and development that the individual has been given to improve.

- 13.4 The dismissal of an employee on the grounds of poor performance capability should be a last resort only after all other options have been fully considered and after adjustments have been considered to support their continuing employment. Consideration should be given to redeployment, where possible.
- 13.5 The employee will have the right to be accompanied at the final performance review meeting by a Trade Union representative or a workplace colleague. It is useful to agree a date with the employee's representative before sending the formal notice. The employee may suggest an alternative time and date for the hearing as long as it is reasonable and is not more than five working days after the original date. The line manager may reject the suggestion but will only do so if it is unreasonable, and they may proceed with the meeting in the employee's absence. Advice on what is reasonable must be sought from the People Team representative.
- 13.6 The manager will confirm in writing within five working days the outcome of the Final Performance Review Meeting, providing a summary of the key points discussed and confirmation of outcome.
- 13.7 If any employee is dismissed at Final Performance Review Meeting, the notice period will start to run from the day following the date of the meeting or the day following the date of the letter if the employee is informed in writing.

14. Action Short of Dismissal

- 14.1 Where a reasonable alternative role (including those at a lower grade) is considered an option as an alternative to dismissal on the grounds of capability, an appropriate position must be available and identified as being a role where the employee will be able to perform effectively.
- 14.2 Where the employee refuses the alternative role, or if an appropriate post is not available the manager will have no alternative other than to dismiss the employee with notice.
- 14.3 Where an employee accepts an alternative role in line with this policy, the changes to terms and conditions will be a permanent change. There is no entitlement to any pay protection and the employee will be placed on the appropriate pay point in grade of the new post. This may not necessarily be at top of the grade. Normal incremental rules will apply, and increments will be awarded in line with Trust policy.

15. Appeals Procedure

- 15.1 Staff will have the right of appeal against the decision to issue them with a formal improvement notice. Staff will also have the right of appeal against the decision to dismiss them under this policy. Please see the Trust's Appeals Policy for further guidance. A copy can be found on the Trust's website.

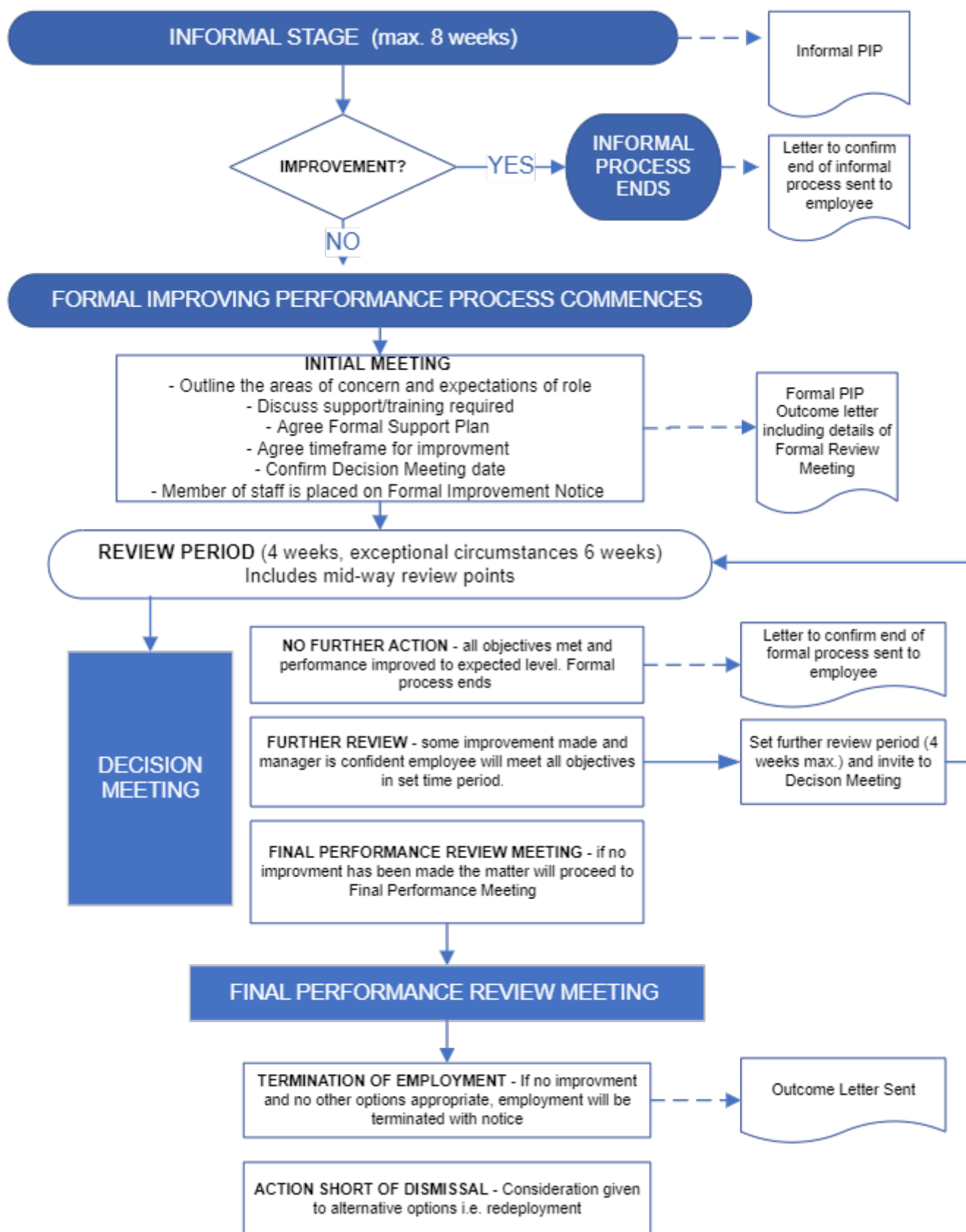
16. Review of the Policy

- 16.1 This policy is reviewed as required by Reach South Academy Trust in consultation with the recognised Trade Unions.
- 16.2 This policy will be reviewed every three years, earlier review may be required in response to exceptional circumstances, organisational change or relevant changes in legislation or guidance.
- 19.3 We will monitor the application and outcomes of this policy to ensure it is working effectively.

POLICY HISTORY

Policy Date	Summary of change	Contact	Implementation Date	Review Date
April 2023	Trade Unions Consultation	Recognised Trade Unions	N/A	N/A
September 2023	New Policy implemented	People Team	September 2023	June 2026

Appendix 1 – Flow Chart of Process



Appendix 2 Informal Performance Improvement Plan (PIP)

Name of Employee	
Job Title	
School / Department	
Date of Meeting	
Performance Review Period End Date	
Manager Leading Process	

#	Improvement Required	SMART* Objective for improving performance	Success Criteria	Completed by (date)	What do you need from the employer to help you meet this objective?		Evidence Base	What Objective completed – Yes / No? Date objective was completed
					Key areas for development	Specific support and/resources that will support you in meeting this objective		
	<i>Improvement required</i> <i>E.g. Refer to Teaching Standards</i> <i>Refer to job description.</i> <i>With examples (reasons why the manager feels this has not been met)</i>	Use SMART objectives	How will you know if you have achieved this objective?	Agreed date for completion	Provide details of areas that need improving	Support details including name of employee proving support, training details, dates of meetings, reasonable adjustments, development, training, flexibility, other) and date to be provided.	What evidence will be used in relation to the objective?	
1								

2								
3								
4								

**SMART – Specific, Measurable, Achievable, Realistic and Timed Objectives*

Progress Meetings

(It is advisable to have a mid-way review meeting. Depending on circumstance, further meetings can be agreed.)

First Review Meeting (Date):		Second Review Meeting (Date):		Third Review Meeting (Date):	
By signing below, you agree to the content of this Informal Performance Improvement Plan					
Employee Name:		Employee Signature:		Date:	
Manager Name:		Manager Signature:		Date:	

INFORMAL - PROGRESS REVIEW NOTES

(This section can be used to record the meeting notes for the review points, as well as documenting the timeline of progress for each area of improvement such as support provided, training attended and feedback provided)

Date	Notes

Appendix 3 – Formal Performance Improvement Plan (PIP)

Name of Employee	
Job Title	
School / Department	
Date of Initial Meeting	
Decision Meeting Date	
Manager Leading Process	

#	Improvement Required	SMART* Objective for improving performance	Success Criteria	Completed by (date)	What do you need from the employer to help you meet this objective?		Evidence Base	What Objective completed – Yes / No? Date objective was completed
					Key areas for development	Specific support and/resources that will support you in meeting this objective		
	<i>Improvement required</i> <i>E.g. Refer to Teaching Standards</i> <i>Refer to job description.</i> <i>With examples (reasons why the manager feels this has not been met)</i>	Use SMART objectives	How will you know if you have achieved this objective?	Agreed date for completion	Provide details of areas that need improving	Support details including name of employee proving support, training details, dates of meetings, reasonable adjustments, development, training, flexibility, other) and date to be provided.	What evidence will be used in relation to the objective?	
1								

2								
3								
4								

Progress Meetings

First Review Meeting (Date):		Second Review Meeting (Date):		Third Review Meeting (Date):	
By signing below, you agree to the content of this Formal Performance Improvement Plan					
Employee Name:		Employee Signature:		Date:	
Manager Name:		Manager Signature:		Date:	

FORMAL - PROGRESS REVIEW NOTES

(This section can be used to record the meeting notes for the review points, as well as documenting the timeline of progress for each area of improvement such as support provided, training attended and feedback provided)

Date of Meeting	Notes