

INTERNAL ONLY
ISLHD PROCEDURE
COVER SHEET

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FUNCTIONAL GROUP OR HUB	District-wide
NSQHS STANDARD	Standard 1
SUMMARY	Provides information, tools and resources that managers can utilise when there are concerns about an employee's performance.

COMPLIANCE WITH THIS DOCUMENT IS MANDATORY

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1 POLICY STATEMENT

This procedure assists a line manager to identify and address concerns about an employee's performance in order for the employee to reach and maintain a satisfactory standard of performance.

2 BACKGROUND

The NSW Public Sector Performance Development Framework, outlines the approach for managing all aspects of employee performance, and is mandatory for all Public Sector agencies under the Government Sector Employment 2013 (GSE Act). The Framework is supported by the NSW Health Policy PD2016_040 Managing for Performance.

The NSW Public Sector Performance Development Framework, contains six components including resolving unsatisfactory performance. This is an event-driven process of addressing and recovering an employee's unsatisfactory performance.

3 RESPONSIBILITIES

3.1 Employees will:

- a) Perform their duties diligently and efficiently, and in accordance with their employment contract and NSW Health policies and procedures;
- b) Comply with all lawful and reasonable directions given by their line manager, or other members of staff authorised to give them;
- c) Commit to an agreed plans for improvement, whether they are formal or informal, including attending training to develop and recover skills;
- d) Maintain appropriate professional standards required of their professional registration (if applicable);
- e) Maintain responsibility for personal and professional development by actively participating in development activities;
- f) Cooperate and commit to recovering performance, where issues have been identified;
- g) Have access to a support person, and records of any meetings which they attend to enable them to agree that they are an accurate reflection of any discussions;
- h) Have the opportunity of sufficient time and support to respond to and recover from unsatisfactory performance concerns.

3.2 Line Managers will:

- a) Act as a role model and promote a harmonious culture within the requirements of the NSW Health CORE Values;
- b) Set clearly defined expectations of their direct reports based on individual and team objectives, linked to service and/or organisational strategic direction;
- c) Monitor performance and provide feedback;
- d) Engage with the employee to resolve unsatisfactory performance in accordance with this procedure;

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- e) Develop plans to recover performance; and
- f) Support the employee as necessary to successfully meet the organisation's expectations of performance.

3.3 Decision Maker will:

- a) Support, guide and be accountable for direct report managers undertaking the management of unsatisfactory performance;
- b) Assess the process undertaken in resolving of the unsatisfactory performance, and the outcomes determined; and
- c) Where performance is determined to be unsatisfactory, recommend action to be taken in accordance with the Government Sector Employment Act 2013 Section 68.

4 FACTORS TO BE CONSIDERED WHEN MANAGING UNSATISFACTORY PERFORMANCE

4.1 Organisational Factors

Employees are encouraged to consider and raise any organisational factors adversely impacting on their performance immediately to their line manager.

Organisational factors may contribute to unsatisfactory performance, therefore line managers should consider such factors and address these if they are found to be contributing to or causing an employee's unsatisfactory performance prior to commencing any level of resolution.

Examples of organisational factors that may contribute to unsatisfactory performance include but are not limited to:

- Inadequate induction processes;
- Inadequate training or supervision;
- Unclear or absent work standards / processes;
- Lack of role clarity;
- Failure to implement the Personal Effectiveness and Development (PED) plans with clear expectations;
- Lack of workplace resources, including inadequate staffing levels and equipment; Workplace health and safety breaches;
- Disruptive personality clashes within the workplace; and
- Discrimination, harassment or bullying in the workplace.

4.2 Personal Factors – Problems Outside of Work

Throughout the process for managing an employee's unsatisfactory performance, a line manager may become aware through various means that the employee is facing personal difficulties, such as family matters which may be impacting on their ability to perform their role.

The line manager should remain supportive and refer the employee to the Employee Assistance Program (EAP). If the personal matters appear significant, the line manager should seek

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guidance from Workforce Support Team for advice on how to progress the managing the unsatisfactory performance process in those circumstances.

4.3 Personal Factors – Medical Concerns

Where it appears that medical concerns are contributing to an employee's unsatisfactory performance, the line manager should seek guidance from the Workforce Support Team.

Depending on the nature of the medical concerns, an employee may be required to take leave or undergo a medical assessment please see the [ISLHD CORP PROC 66 Managing Non Work Related Illness/Condition](#). Any actions under this procedure (resolving unsatisfactory performance) may need to be suspended until the medical issue is resolved.

Throughout the process, if a line manager becomes aware that the employee is facing personal difficulties, the line manager should remain supportive and advise of the availability of the EAP program.

5 PROCEDURE

Where there are unsatisfactory performance concerns these should be dealt with promptly and appropriately by the employee's line manager as employees are often unaware they are not performing to the expected standard.

Unsatisfactory performance concerns that are not addressed promptly have the potential to become more serious over time and may have a negative impact on the delivery of services and/or others in the workplace, service delivery and/or on patient care. It also has the potential to give the employee the impression that their performance is acceptable.

Line managers provide guidance, feedback and support to employees as part of their regular day-to-day responsibility for managing staff. This informal management is essential for identifying any performance concerns in a timely and constructive manner. It is important that employees are made aware of any unsatisfactory performance concerns that their line manager may have and are given the opportunity to develop or recover their performance with appropriate support.

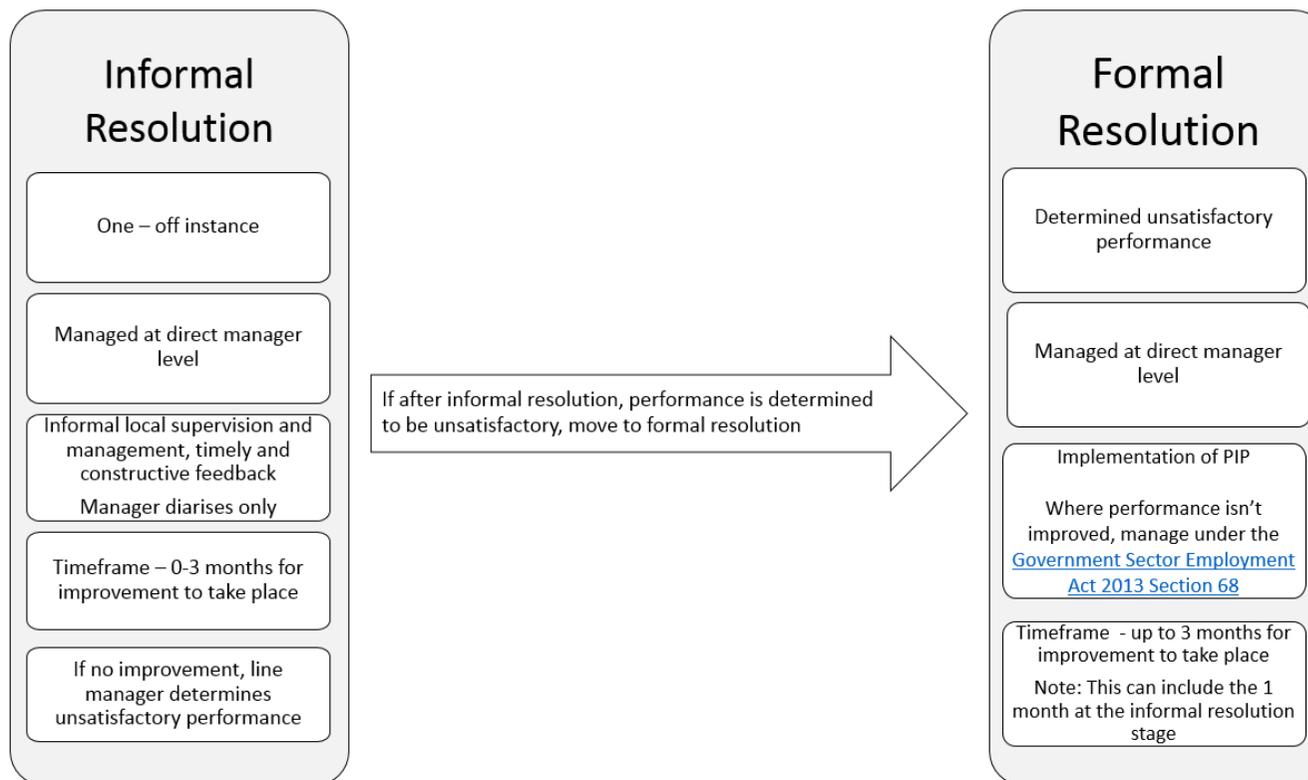
There are two processes within ISLHD's resolving unsatisfactory performance procedure

- For steps in the informal resolution stage, refer to Flowchart: Informal resolution; and
- For steps in the formal resolution stage, refer to Flowchart: Formal resolution.

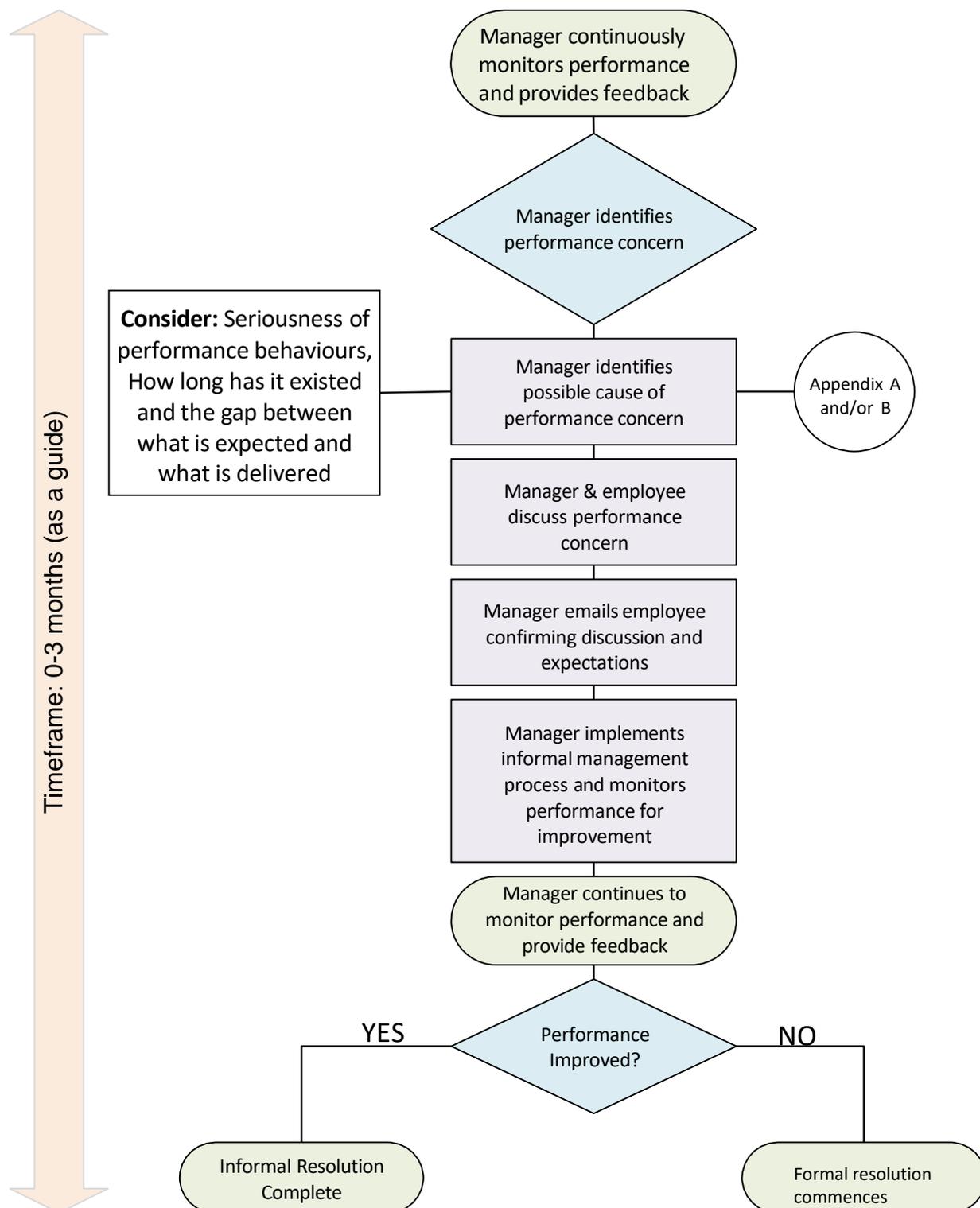
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Process Flowchart:



Flowchart 1: Informal resolution:



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5.1 Informal resolution: Timeframe = 0-3 months (As a guide)

It is important as a line manager to identify specific performance and behaviours of the employee that are of concern. Informal resolution incorporates supervision and management, timely and constructive feedback. Opportunities for improvement are provided to the employee.

Step 1: Identify the issue

Line manager to identify performance concern when an employee does not perform their duties to a standard that ISLHD requires and expects as reflected in the position description, policies and procedures.

To determine the direction of action to be taken the line manager must:

- Consider and assess the employee's current performance;
- Identify the impact of the specific performance and behaviours that are of concern;
- Seek advice where appropriate if unsure of action to be taken.

Step 2: Identify any possible causes of the performance concern

The line manager may wish to use the Initial Assessment tool (Appendix A), to assist determining possible cause of the performance concern, and/or the Performance Risk Assessment Tool (Appendix B) to determine the level of risk to patient safety and/or the organisation that the continued performance concerns pose.

Line managers should consider at this point:

- How serious the performance and behaviours are;
- How long the performance and behaviours have existed; and
- How wide the gap is between what is expected and what is being delivered.

The line manager should engage with the employee to discuss any factors that may be contributing to the unsatisfactory performance.

Step 3: Provide constructive feedback to the employee

Line managers are to ensure that feedback regarding performance concern:

- Is provided in a timely manner following the instance/recognition of a pattern of performance;
- Is provided respectfully and constructively;
- Clearly identifies the standard not being met, including examples or incidences of the performance concern;
- Provides context and clarity around the expected standard of performance;
- Invites questions or clarification from the employee regarding the performance concern.
- Seeks input from employee as to how the performance concern may be improved or resolved from their perspective;
- Provides support and guidance to improve/resolve the performance concern;

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- Considers initiatives for improving any identified unsatisfactory performance (Learning and development programs/courses, coaching, mentoring, on-the-job training,
- Confirms agreement of actions to be taken to address performance concern.

Line managers are to ensure that notes of the discussion with the employee regarding the unsatisfactory performance are kept via a file note or email confirming discussion with the employee. These notes are to be entered into TRIM in the personnel file.

Step 4: Continuous monitoring of performance

Line manager continues to monitor performance and provide feedback to employee on the progress against the agreed actions.

As a guide after 1 month of informal resolution, the line manager should assess whether the employee has reached a satisfactory standard of performance. Process may need to continue for more than 1 month, this is a starting point to assess whether any progress has been made.

If the performance is satisfactory, continuous monitoring and provision of feedback will continue as normal day to day management process.

If performance has not reached a satisfactory level, proceed to Step 5.

Step 5: Continued performance concerns

Line manager and employee discuss the continued performance concerns in detail.

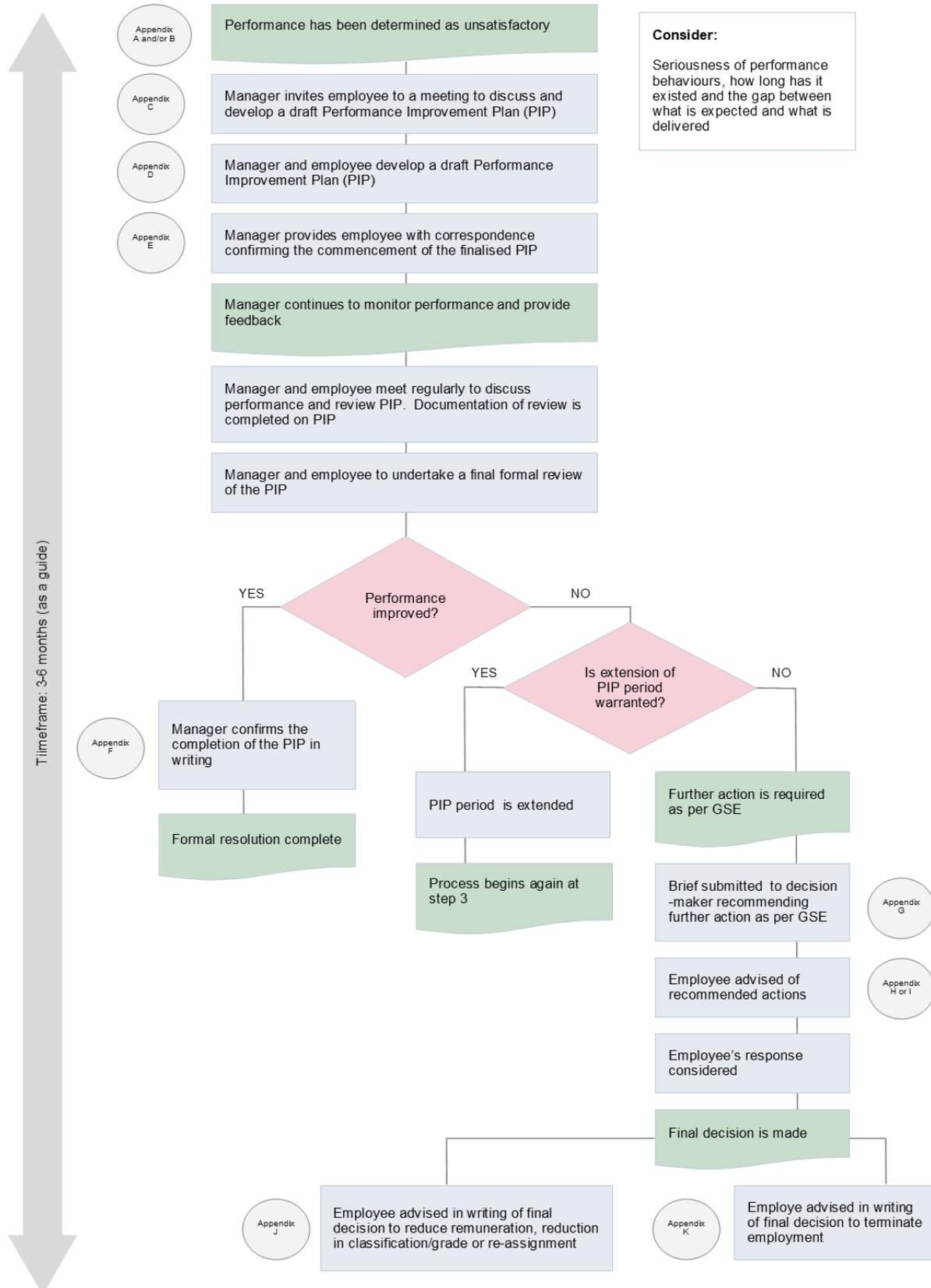
Line manager is to document the discussion between themselves and the employee, a copy of the documented discussion and standards of performance is to be given to the employee.

Where the line manager has determined the ongoing performance concerns could amount to unsatisfactory performance, the line manager is to move to formal resolution immediately. (See formal resolution for process).

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Flowchart 2: Formal Resolution:



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5.2 Formal resolution: Timeframe = 0-6 months (As a guide including the time taken at informal resolution).

The decision to undertake the formal resolution process should be made in collaboration with the Workforce Support Team, taking into account the requirement for procedural fairness.

Formal action is to be determined by the line manager and involves counselling, monitoring and management of performance utilising a Performance Improvement Plan.

Step 1: Determine unsatisfactory performance

Commencement at this point may be via an escalation from an informal process and/or serious concern about performance.

The line manager must take time to consider and understand the key drivers of the performance concern (refer to section 4).

The line manager also completes the Performance Risk Assessment Tool (Appendix B) to determine the level of risk to patient safety and/or the organisation that the continued unsatisfactory performance poses.

- Line managers should consider at this point:
- How serious the performance and behaviours are;
- How long the performance and behaviours have existed; and
- How wide the gap is between what is expected and what is being delivered.

Note: Any Performance Risk Assessment Tool and/or Initial Assessment that have been completed as part of the informal resolution stage can be used for the formal stage as well.

Step 2: Formal Performance Improvement Meeting

Where it is determined that the employee's performance is unsatisfactory, the line manager provides the employee with a formal letter advising their performance has been determined as unsatisfactory and inviting them to a meeting to discuss and develop a draft Performance Improvement Plan (Appendix C).

The letter should offer the employee an opportunity to bring a support person to the meeting and should contain details of the specific unsatisfactory performance to be discussed including any previous training or development opportunities provided.

The letter should be provided to the employee at least 48 hours before the meeting and should be delivered in a confidential manner in order to ensure procedural fairness.

The formal Performance Improvement Plan meeting is an opportunity for the line manager to communicate with the employee regarding their current performance level in comparison with the expected standards of performance; explore the cause of the unsatisfactory performance; and collaboratively develop a formal Performance Improvement Plan (Appendix D) which seeks to remediate the unsatisfactory performance.

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The line manager begins discussions with the employee by explaining the performance concern in specific terms, providing factual information including dates and examples.

From this conversation the employee should be able to clearly understand:

- What the concern is;
- Why it is a concern; and
- How it impacts on the workplace.

This meeting is an open discussion where the employee is given an opportunity to raise any mitigating circumstances for their performance such as lack of training, resources etc.

Step 3: Developing and finalising the Performance Improvement Plan

Note:

The Performance Improvement Plan is not finalised at the initial meeting, at least 48 hours should be provided to the employee to give them an opportunity to comment on the draft Performance Improvement Plan. This can be done informally via email and a discussion if required.

The line manager should engage with the employee to collaboratively develop and implement initiatives for improving any identified unsatisfactory performance. The employee's adherence to, and progress against these initiatives should be integrated within the line manager's continuous monitoring of the employee's performance.

The Performance Improvement Plan must be developed in consultation with the employee, and is to provide sufficient opportunity for the employee to address their unsatisfactory performance.

The Performance Improvement Plan must also include the following details:

- How the employee's performance will be monitored going forward;
- What the expected outcomes of the Performance Improvement Plan are;
- The monitoring period of the plan; and
- When any follow-up review meetings are to occur.

The selection of initiatives is dependent on the unsatisfactory performance being addressed and any possible causes of the unsatisfactory performance. Initiatives may include but are not limited to:

- Learning and development programs/courses,
- Coaching;
- Mentoring;
- On-the-job training;
- Internet researching;
- Work shadowing;
- Workplace counselling; and
- Facilitated conversations.

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On formalisation of the Performance Improvement Plan the employee is to be provided with correspondence confirming the commencement of the agreed Performance Improvement Plan and any timelines including review meetings which are to be adhered to (Appendix E). The letter also advises on potential outcomes if the performance remains unsatisfactory.

Step 4: Monitor Performance

As a general guideline, the monitoring period for a Performance Improvement Plan is determined by the nature and complexity of the position, and the nature and level of risk of the performance concern.

The line manager should meet with the employee fortnightly following implementation of the Performance Improvement Plan or more regularly if required. These meetings are an opportunity for the line manager and employee to discuss how the employee is progressing with their Performance Improvement Plan, and for the line manager to provide any feedback including specific examples of continued instances of unsatisfactory performance.

Where a new issue is identified, the line manager firstly needs to determine if it is unsatisfactory performance or if the new issue should be dealt with under a different policy e.g.: misconduct (refer to 2.3 Relationship to other policies and procedures).

Where the issue is determined to be unsatisfactory performance, the Performance Improvement Plan may require amendment to include this issue.

Meetings can be ceased if performance has improved and is no longer determined as unsatisfactory.

Following each meeting the line manager is to update the “progress column” on the Performance Improvement Plan detailing what has been achieved and if relevant what is still outstanding. An updated copy of the Performance Improvement Plan is to be given to the employee and entered into TRIM in the personnel file.

Step 5: Final review meeting

At the final review meeting the line manager will discuss the expectations and standards that have been achieved, and identify any aspect that has not been achieved and /or further unsatisfactory performance.

Where the line manager is of the view that there has been a satisfactory improvement in performance, the line manager should acknowledge the employee’s efforts and confirm in writing (Appendix F) that no further formal action is currently required. The line manager will also advise that if any similar concerns about performance arise within the next 12 months the employee may be managed under the formal resolution process.

Where the line manager is of the view that there has **not** been a satisfactory improvement in performance. The line manager may consider whether an extension of the Performance Improvement Plan period is warranted, although this should only occur in limited circumstances. Where there is a view that an extension of the Performance Improvement Plan is to be developed, the Performance Improvement Plan is to be updated and a copy of the Performance Improvement Plan given to the employee.

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Where the unsatisfactory performance has not met the expected standards set out in the Performance Improvement Plan, the line manager needs to assess all of the circumstances of the employee's performance. This should occur in consultation with Workforce Support to determine whether or not sufficient and fair opportunity has been granted for the employee to improve their performance and whether or not that improvement has lifted their performance to an acceptable level.

The assessment will:

- Determine that a further Performance Improvement Plan is to be developed in order to give the employee sufficient opportunity to demonstrate improvement; or
- Recommend to the decision maker what if any administrative action is necessary.

Step 6: Implement outcomes

Further action in accordance with section 68 of the GSE Act may be necessary wherever any of the following outcomes are enlivened:

- the employee's performance is determined by the employer to be unsatisfactory in accordance with the agency's performance management system, and
- reasonable steps have been taken to advise the employee that the employee's performance is unsatisfactory and the basis on which it is unsatisfactory, and
- the employee is notified that the employer is proposing to take specified action under section 68 (2) of the GSE Act in respect of the employee, and
- the employee is given a reasonable opportunity to respond to the notice.

Where there is a view that there is a need for further actions to be taken in accordance with section 68 of the GSE Act a brief (Appendix G) is required to the decision maker summarising the performance improvement process, and justification for why the recommended action is appropriate in the circumstances.

Where the decision maker proposes to recommend termination or changes to the employee's employment in accordance with section 68 of the GSE Act, the employee must be advised in writing and given an opportunity to respond, and/or resign, or provide any additional information, prior to the recommendation being made to the Chief Executive (i.e. the employee should be given an opportunity to show cause as to why their employment should not be terminated due to unsatisfactory performance). A response from the employee should be required within a reasonable time period (usually not more than two calendar weeks).

Any decision to progress a termination of employment due to unsatisfactory performance should be a last resort and only after genuine attempts have been made to improve the employee's performance. In some instances, this means more than one management action may be taken prior to a recommendation being made to the Chief Executive to terminate an employee.

The decision maker will consider all responses received from the employee to determine if the initial recommendation to change conditions of employment for the employee is still appropriate.

The employee is be advised in writing where the outcome is:

- Reduction of remuneration;

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- Reduction of classification/grade; and/or
- Assignment to a different role.

Where changes to conditions of employment is the outcome, the process for resolving unsatisfactory performance ceases and new expectations should be set in the employee's new position.

Termination of employment due to unsatisfactory performance must be approved by the Chief Executive, who must be independently satisfied that this action is warranted. Where the outcome is to terminate the employee's employment, the employee is to be advised in writing.

Workforce Support will assist managers to progress and implement these actions.

6 RECORD KEEPING

All documentation created as part of the formal resolution process should be entered into HP Content Manager. This includes minutes of any informal and formal meetings held.

7 GRIEVANCES

Where an employee has a grievance about the management of their performance and/or behaviour under this procedure, the [NSW Health Policy Resolving Workplace Grievances PD2016_046](#) applies. However, the process for resolving unsatisfactory performance under this procedure will continue whilst the grievance is considered and resolved.

8 DOCUMENTATION

- Form - [ISLHD CORP F 89 - Resolving Unsatisfactory Performance Initial Assessment Template](#).
- Form - [ISLHD CORP F 90 - Unsatisfactory Performance Risk Assessment Tool](#).
- Form - [ISLHD CORP F 91 - Letter- Inviting employee to attend Performance Improvement Plan meeting](#).
- Form - [ISLHD CORP F 92 - Performance Improvement Plan](#).
- Form - [ISLHD CORP F 93 - Letter Performance Improvement Plan being implemented](#).
- Form - [ISLHD CORP F 94 - Letter to employee confirming completion of Performance Improvement Plan](#).
- Form - [ISLHD CORP F 95 - Letter to employee performance concerns remain and being escalated](#).

9 REFERENCES

[NSW Health Policy Directive PD2016_040 Managing for Performance](#)
[Government Sector Employment Act 2013 Section 68](#)

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[Government Sector Employment \(General\) Rules - Rule 36](#)
[NSW Public Sector Performance Development Framework](#)

10 AUDIT

Not Required.

11 REVISION & APPROVAL HISTORY

Date	Revision No.	Author and Approval / Date
Feb 2018	0	Author: Performance and Recognition Co-ordinator Approved by Director People, Culture and Safety
		Approval / Date: May 2018 Approved by Executive Director Finance, Workforce, Corporate and Strategic Improvement
August 2021	1	Author: Manager Workforce Relations
		Approval/Date: Corporate Policy Recommendation committee / August 2021 Approval/Date: Executive Director Strategic Improvement Programs / August 2021