

Unsatisfactory Performance and Attendance – Police Officers

1.0	Introduction
2.0	General Principles and Definitions of Unsatisfactory Performance/Attendance
3.0	Unsatisfactory Performance and Complaints
4.0	Link between Unsatisfactory Performance/Attendance and Misconduct
5.0	Standards of Professional Behaviour
6.0	Continuous Professional Development (CPD)
7.0	Overview of U.P.A.P. Process
8.0	Informal Management Action prior to Formal Procedures (Informal Stages)
9.0	Stages (Formal Procedures)
10.0	Formal Procedure
11.0	Assessment of Performance/Attendance – Improvement Review Meeting
12.0	Stage 2 Meeting
13.0	Gross Incompetence
14.0	Stage 3 Meeting
15.0	Stage 3 Meeting Administration
16.0	Role and Responsibilities
17.0	The Appeals Procedure
Forms:	Access Forms Database Here
UPAP 1	Notice of Stage 1 Meeting Letter to Officer
UPAP 2	Notice of Outcome(s) following Stage 1 Meeting to Officer
UPAP 3	Stage 1 End of Monitoring Period – Satisfactory Performance/Attendance Letter to Officer
UPAP 4	Notice of Stage 2 Meeting Letter to Officer
UPAP 5	Notice of Outcome(s) following Stage 2 Meeting to Officer
UPAP 6	Stage 2 End of Monitoring Period – Satisfactory Performance/Attendance Letter to Officer
UPAP 7	Notice of Stage 3 Meeting (following 1 & 2) Letter to Officer
UPAP 8	Notice of Stage 3 Meeting (Gross Incompetence) Letter to Officer
UPAP 9	Notice of Outcome(s) following Stage 3 Meeting to Officer- Issue/ Extension to Final Written Improvement Notice (F.W.I.N.).
UPAP 10	Written Improvement Notice
UPAP 11	Action Plan
UPAP 12	Progress Form

1.0 Introduction

The performance of individual Police Officers is a key element in the delivery of a quality Policing Service.

Performance and attendance management in the Police service are intended to be positive and supportive processes, with the aim being to improve performance or attendance. However, there will be cases where formal action under this procedure and related procedures is required to improve performance and/or attendance. This procedure outlines Staffordshire Police's approach to dealing with unsatisfactory performance/attendance of Police Officers. The related procedures assist managers to decide how and when to use the formal procedures contained within the Police (Performance) Regulations 2012 and the Staffordshire Police Unsatisfactory Performance and Attendance Management Procedure.

The underlying principle of the procedures is to provide a fair, open and proportionate method of dealing with the performance and attendance issues and to encourage a culture of learning and development for individuals and the organisation.

Application (Performance Regulations only)

This procedure applies to Police Officers up to and including the rank of Chief Superintendent and Special Constables. However, given the nature of Special Constables as unpaid volunteers, cases where the procedures are initiated for Special Constables may be limited to those where the Special Constable either contests that his or her performance is unsatisfactory or agrees that it is unsatisfactory but expresses a desire to continue with his or her Special Constable duties.

Student Officers (Performance Regulations only)

The procedure and related procedures do not apply to Student Officers during their probationary period. There is a separate procedure for Student Officers which is underpinned by Regulation 13 of the Police Regulations 2003.

2.0 General Principles and Definitions of Unsatisfactory Performance / Attendance

The primary aim of this procedure is to provide positive support to improve performance and attendance in the Police service. It is envisaged that early intervention via management action should achieve the desired effect of improving and maintaining an Officer's performance or attendance to an acceptable level in a timely manner.

There will, however, be cases where it will be appropriate for managers to take formal action under the procedures. Where performance or attendance does not improve to acceptable levels or, in the case of attendance, where there is no realistic prospect of return to work in a reasonable timeframe, this may lead to dismissal.

This Procedure is based on the following principles:

All unsatisfactory performance/attendance matters should be dealt with fairly, at an appropriate level and with minimum delay.

Where unsatisfactory performance/attendance procedures are used, managers and other stakeholders involved in the process must act in a way which an objective observer would consider reasonable. These include:

- Ensuring the Officer is clear as to the breach of the relevant procedures, this should be based on facts;
- Discussing any shortcoming (s) or concern (s) with the officer at the earliest possible opportunity;
- Establishing whether there are any underlying reasons for unsatisfactory performance/attendance issue. This will include health issues and other factors which may or may not be within the scope of equality legislation;
- Providing support and guidance where appropriate
- Ensuring that the level of any outcome imposed and any related remedial action, taking into account all the circumstances is proportionate, consistent and fair in the circumstances;
- Dealing with issues sensitively and appropriately
- Conducting the procedures in accordance with this procedure and related procedures which are underpinned by the Performance Regulations;

Individual officers have the right to appeal against the outcome at each stage of the procedures.

2.1 Legal Representation

An officer may seek legal advice at any time, although legal representation is confined to third stage meetings where the procedure has been initiated at this stage due to alleged gross incompetence. Advice can also be sought from staff associations and all officers can be advised and represented by a Police friend.

2.2 Gross incompetence

Gross incompetence is defined in Regulation 4 of the Police (Performance) Regulations 2012 as:

‘...a serious inability or failure of a Police Officer to perform the duties of the role or rank he/she is currently undertaking to a satisfactory standard or level, to the extent that dismissal would be justified, except that no account shall be taken of the attendance of a Police Officer when considering whether he has been grossly incompetent.’

2.3 Unsatisfactory Performance

The procedure and related procedure are designed to cover either repeated failures to meet satisfactory standards or more serious cases of unsatisfactory performance/capability. Occasional lapses below satisfactory standards should be dealt with in the course of normal day to day management activity.

Unsatisfactory Performance or Attendance is defined in Regulation 4 of the Police (Performance) Regulations 2012 as:

‘An inability or failure of a Police Officer to perform the duties of the role or rank he/she is currently undertaking to a satisfactory standard or level’.

2.4 Unsatisfactory Attendance

The procedure when used in conjunction with the Force Sickness Absence Policy is designed to deal with matters relating to periods of absence, which compromise an officer's ability to perform their duties. A failure by a Police Officer to co-operate will not prevent formal action being taken or continued. This procedure and related procedure(s) should be utilised in cases of both unacceptable levels of persistent short-term absences and long-term absences due to sickness and/or injury.

3.0 Unsatisfactory Performance and Complaints

There may be instances where line managers are made aware of unsatisfactory performance on the part of one of their officers as a result of information from a member of the public. This may take the form of an official complaint. Such cases will be dealt with in accordance with the force procedures for handling complaints and will be largely overseen by the Performance Assessment Unit within People Services.

In cases where the outcome of a local resolution or an investigation into a complaint is that of unsatisfactory performance it may be appropriate to invoke these procedures in order to improve the performance of the officer and provide them with an opportunity to learn and adjust their behaviour.

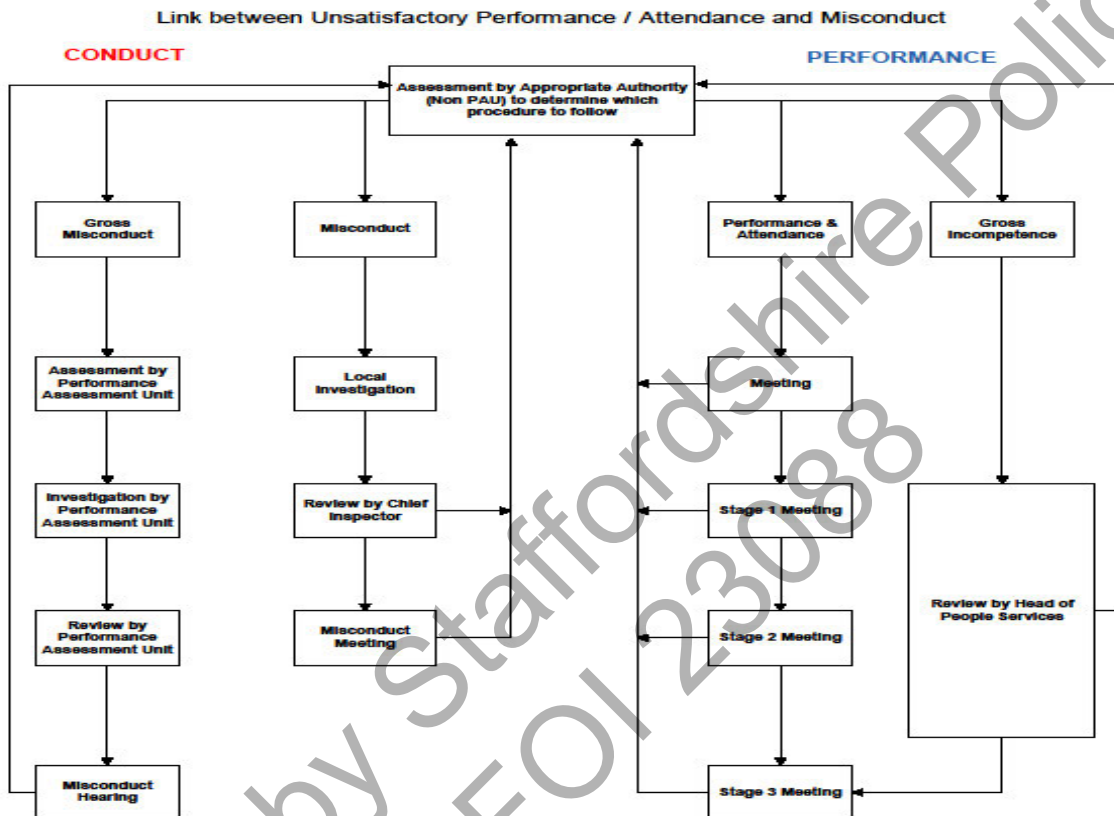
It may also be the case that a complaint adds to existing indications of an officer's unsatisfactory performance to the extent that action under this procedure is appropriate or, if the officer is already subject to proceedings, continuation to the next stage of the process may be required.

The Performance Assessment Unit will advise line managers of the required intervention to address performance issues which have been highlighted as a result of a complaint or anti corruption activity.

The process for the management of complaints can be accessed via the Force Policy Database – Police (Conduct) Regulations, Appendix B.

4.0 Link between Unsatisfactory Performance/Attendance and Misconduct

In most cases, unsatisfactory performance will be apparent to a line manager and should be addressed through management action and a performance plan accordingly. However, in some cases it may not be apparent whether the matter is one of misconduct or unsatisfactory performance. This should be established as soon as possible so that the most appropriate procedure can be followed.



In cases of alleged misconduct, the issue must be referred to the designated Chief Inspector/Senior Police Staff Manager who should liaise with a HR Representative in order to agree the most appropriate course of action.

Misconduct is defined as a breach of the Standards of Professional Behaviour:

- Honesty and Integrity
- Authority, Respect and Courtesy
- Equality and Diversity
- Use of Force
- Orders and Instructions
- Duties and Responsibilities

- Confidentiality
- Fitness for Duty
- Discreditable Conduct
- Challenging and Reporting Improper Conduct

Gross Misconduct is defined as a breach of the Standards of Professional Behaviour so serious that dismissal would be justified.

In some cases there may be a breach of both misconduct and performance procedures and therefore each will be dealt with under the respective procedures.

Documentation gathered under unsatisfactory performance procedures may be used for the purposes of the misconduct procedure. However, if criminal proceedings are in place to investigate the alleged misconduct, evidence may need to be gathered under caution and therefore it may not prove possible to use documentation regarding the performance issue(s). In these circumstances, advice should be sought from the Performance Assessment Unit.

4.1 Link between Unsatisfactory Performance and Attendance

Attendance management in the Police service is intended to be a positive and supportive process to improve sickness attendance. Where line managers are providing supportive action in order to improve the attendance of an officer they may also identify areas of unsatisfactory performance as it is recognised that both unsatisfactory performance and unsatisfactory attendance can be linked.

Where it is identified that an **individual has both performance and attendance issues, they must be managed separately**. Line managers should ensure that there is both a Performance Action Plan to address the issues commensurate with performance and an individual support plan in place to address the issues concerning the attendance at work, **both of which should be independent**.

In all cases, the starting point to address the unsatisfactory performance and/or attendance is supportive action. Line managers in consultation with a HR Officer, must ensure that the appropriate supportive action is taken before formal action is instigated under this procedure.

4.2 Medical retirement under Police pension legislation (Performance Procedures)

Where an officer is referred to the Selected Medical Practitioner (SMP) for consideration of permanent disablement under the Police Pensions Regulations, any action under this procedure and related procedure (unsatisfactory attendance) will not be finalized whilst the question of H1 remains outstanding. The organisation reserves the right to continue to manage the case under these procedures but no date will be set for a Stage 3 meeting until the matter is concluded. Alternatively, action under these procedures may be suspended until such a time as permanent disablement has been considered and the report of the SMP has been received. The above should also apply where the officer appeals to a Medical Appeals Board against the decision by the SMP.

Action can, be taken under this procedure and related procedure where a case has been referred or is the subject of appeal if the unsatisfactory attendance is unrelated to the

condition forming the basis of the referral or appeal. Appropriate advice should be sought from the Force Medical Advisor via the Head of People Services.

5.0 Standards of Professional Behaviour

Honesty and Integrity

Police Officers are honest, act with integrity and do not compromise or abuse their position.

Authority, Respect and Courtesy

Police Officers act with self-control and tolerance, treating members of the public and colleagues with respect and courtesy. Police Officers do not abuse their powers or authority and respect the rights of all individuals.

Equality and Diversity

Police Officers act with fairness and impartiality. They do not discriminate unlawfully or unfairly.

Use of Force

Police Officers only use force to the extent that it is necessary, proportionate and reasonable in all the circumstances.

Orders and Instructions

Police Officers only give and carry out lawful orders and instructions. Police Officers abide by police Regulations, Force Policies and Lawful Orders.

Duties and Responsibilities

Police Officers are diligent in the exercise of their duties and responsibilities.

Confidentiality

Police Officers treat information with respect and access or disclose it only in the proper course of Police duties.

Fitness for Duty

Police Officers when on duty or presenting themselves for duty are fit to carry out their responsibilities.

Discreditable Conduct

Police Officers behave in a manner which does not discredit the police service or undermine public confidence, whether on or off duty.

Police Officers report any action taken against them for a criminal offence, any conditions imposed on them by a court or the receipt of any penalty notice.

Challenging and Reporting Improper Conduct

Police Officers report, challenge or take action against the conduct of colleagues which has fallen below the Standards of Professional Behaviour.

6.0 Continuous Professional Development (CPD)

All officers are required to maintain their standards of professional practice and take personal responsibility to ensure that they:

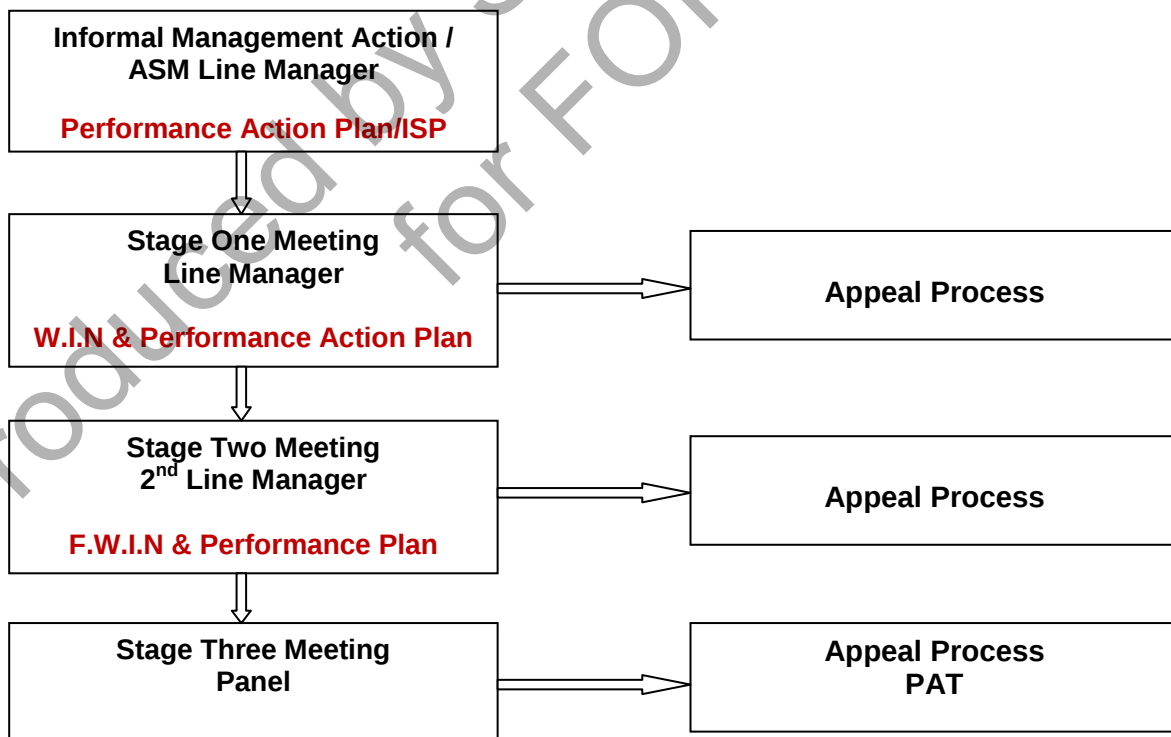
- Identify, implement and monitor development activities to enhance performance.
- Assess skills and identify personal development needs at regular intervals
- Undertake continuous self-development activities
- Keep up to date with changes affecting their role

Staffordshire Police seeks to promote a self directed learning culture by helping individuals to identify alternative development opportunities to support their continuous professional development. Managers at all levels in the organisation are required to support officers in meeting this requirement and encourage everyone to maintain a record of their professional and personal development in a Continuous Professional Development (CPD) plan.

A Continuous Professional Development plan provides an officer with the opportunity to record any activity which is linked to their professional and personal development. This can be used to highlight any development that they require in their current role and will also assist managers in providing support at an early stage in a positive and pro active manner.

For further information regarding the force CPD procedure please see HRD07 – Performance Management and Continuous Professional Development.

7.0 Overview of U.P.A.P. Process



8.0 Informal Management Action prior to Formal Procedures (Informal Stages)

Managers are required to deal with unsatisfactory performance or attendance issues in light of their knowledge of the officer and any circumstances giving rise to concerns. It is envisaged that early intervention via management action should achieve the desired effect of improving and maintaining performance to an acceptable manner.

Line Managers must ensure that any shortcoming(s) or concern(s) regarding the performance or attendance are discussed with the officer at the earliest possible opportunity. The reasons for the concern(s) should be made clear to the officer as soon as possible and there should be a factual basis for initiating a discussion around his or her performance i.e. the discussion must relate to specific incidents that have occurred and how the required standards have not been achieved.

In taking a proactive approach line managers should initially counsel the individual to determine reasons for the unsatisfactory performance and identify ways of resolution without recourse to the formal procedure. In doing so line managers may establish whether there are any underlying reasons for the unsatisfactory performance or attendance. By using early intervention it may be that the officer reveals information which could demonstrate a lack of training or instruction for example. It is good practice for a line manager to hold an informal meeting with the officer concerned in order to address and discuss the performance issue(s) in an open manner concentrating on the following:

- Defining the root issue/problem
- Identifying realistic and achievable standards of performance
- Discussion of the shortcomings in reaching these standards
- Exploring possible reasons for shortcomings
- Agreeing how and when acceptable performance might be achieved, with realistic timescales and monitoring arrangements (Implementation of a Performance Action Plan).

Both parties should look to suggest methods of assisting the individual to improve, and full account must be taken of the individual's own circumstances. Line Managers must give the individual every opportunity to present their explanation of the situation and should encourage the officer to use a CPD log in order to record their development needs.

Management action taken as a result of identifying unsatisfactory performance or attendance should be recorded by way of a performance action plan. A performance action plan describes what action(s) the Police Officer should take to help them achieve and maintain the required improvement and should be formulated and agreed by both parties.

In particular, the performance action plan should:

- Identify any weaknesses which may be the cause of unsatisfactory performance or attendance;
- Outline the steps the officer must take to improve performance and/or attendance and what support is available from the organisation e.g. training, referral to Occupational, Health, Safety & Welfare;
- Specify the period within which actions identified should be reviewed; and

- Set a date(s) for a staged review(s) of the Police Officer's performance or attendance
- Specify a validity period (see 8.1)

And should include the following:

- Training/ retraining/ development
- Referral, where appropriate, to Occupational Health Safety and Welfare
- Mentoring/ coaching
- Closer supervision for a limited period
- Temporary alterations to duties which do not change the character of the role but allow the individual to develop at a more gradual pace.

By creating a Performance Action Plan, line managers ensure continuity in circumstances and ensure that the discussions are documented. It is also important to record when improvement has been made in the officer's performance or attendance. The Performance Action Plan should be completed using the Lotus Notes Database.

Line Managers can consider individual interventions in isolation or in any combination when agreeing the plan and are able to apply discretion to determine the appropriate use of interventions.

The period of time agreed by the line manager for the officer concerned to improve their performance or attendance must be sufficient to provide a reasonable opportunity for the desired improvement to take place however, it is not envisaged that this should exceed 3 months. This period may be extended if, due to unforeseen circumstances (e.g. certified sickness absence in the context of the performance issues) the Police Officer is unable to demonstrate whether or not the required improvement has been achieved.

Consideration will be given as to whether there are any health or welfare issues that are or may be affecting the performance or attendance of the officer. If an officer has or may have a disability within the scope of the Equality Act (2010) this would need to be taken into account and reasonable adjustments should be discussed to ensure that his or her individual needs are met.

In line with the Sickness Absence Procedure, individuals that have persistent short-term absences within a 12 month rolling period or a long term sickness period (individuals who meet the "red" rating criteria) will trigger an early management intervention. This comprises of an Attendance Support meeting, management welfare visits and the implementation of an Individual Support Plan. The plan is aimed at documenting the required activities that an individual is required to comply with, providing supportive and positive measures in order for the individual to maintain attendance at work. Line Managers and individuals must read the detailed information upon how to compose an Individual Support Plan and how to manage attendance issues under the informal process / management intervention by reference to the Sickness Absence Policy.

Ideally, as a result of management action, performance or attendance will improve to an acceptable level. Where there is no improvement, insufficient improvement or the improvement is not sustained over the specified period, it will then be appropriate to escalate the issues to the formal stages of the procedure.

8.1 Informal Stage Validity Period

Where cases of unsatisfactory performance/attendance are dealt with via management action at an informal stage, the performance action plan will have a specified period of up to 3 months and a validity period of 12 months from the effective date of the performance action plan.

If improvements are not achieved via the informal management action or there is a failure to maintain the improvement within the validity period, the line manager (in consultation with the relevant HR Officer) will arrange a meeting with the officer to discuss his/her performance and/or attendance under the formal procedures.

9.0 Stages (Formal Procedures)

The point at which a concern about a Police Officer's performance should lead to action being taken under the formal procedures of the Police (Performance) Regulations is not prescriptive. Each case should be considered in light of what is known as there is no restriction on referring cases straight to a first stage meeting where the manager considers it appropriate to do so. However, managers should be able to demonstrate that they have considered whether management action is appropriate before using the formal stages of the procedure.

In cases where the performance of the individual officer is considered more serious and the line manager believes that written improvement advice would be more appropriate, consultation with a HR Officer and the Performance Assessment Unit should be undertaken.

9.1 Overview of the Formal Procedures

The formal procedures contain 3 stages with a right of appeal at each stage.

Stage	Responsibility
Formal Stage 1 Meeting	First line manager. Relevant Human Resources representative (HRO/HRM) will attend as an advisor.
Stage 1 Appeal	Second line manager. Independent HRO/HRM will attend as an advisor.
Formal Stage 2 Meeting	Second line manager. Relevant Human Resources representative (HRO/HRM) will attend as an advisor.
Stage 2 Appeal	Senior Manager. Independent HRO/HRM will attend as an advisor.

Formal Stage 3 Meeting	Senior Officer and 2 Panel Members. Usually; ACPO, Superintendent and Senior HR Manager
Stage 3 Appeal	Police Appeals Tribunal

Definitions (Formal Procedures)

Appropriate Authority – the Chief Officer (or nominated deputy)

Bank Holiday – a day which is a bank holiday under the Banking and Financial Dealings Act 1971(c) in England and Wales. Consideration will also be given where an officer has elected bank holidays, commensurate with the Winsor Recommendations.

First Line Manager – Police Officer or Police staff individual who has immediate supervisory responsibility of the officer e.g. Sergeant

Interested Party – a person whose involvement in the procedures could reasonably give rise to a concern as to whether s/he could act impartially.

Nominated Person – A Senior Manager may appoint another Police Officer/Police staff of at least the same or equivalent rank or grade to carry out either the functions of the First Line Manager or the Second Line manager; referred to as a nominated person. This may be appropriate in circumstances where the line managers are not available during the process to perform the function of the role

Police Friend – Federation / Superintendent Association Representative or Staffordshire Police member of staff (Police Officer or Police staff).

Second Line Manager – Police Officer or Police staff individual who has immediate supervisory responsibility of the first line manager e.g. Inspector

Senior Manager – Police Officer or Police staff individual who has immediate supervisory responsibility of the second line manager e.g. Chief Inspector or equivalent.

Senior Officer – Police Officer holding a rank above that of Chief Superintendent.

Working Day – means any other day other than a Saturday or a Sunday, a bank holiday or a public holiday in England and Wales.

Timescales (during the Formal Procedure)

The strict timescales detailed within the procedure should be adhered to at each stage of the procedure under normal circumstances. There may, however, be circumstances which necessitate an extension to these timescales (e.g. availability of Senior Officers or equivalent) and it is expected that all parties will operate a common sense approach towards mutually agreeing to extend timescales. Where an extension is agreed, this will be confirmed in writing by the relevant line manager and the officer will be kept fully informed of the progress being made.

The following timescales will apply (all days are working days)

- Written notice to attend a Stage 1 or 2 Meeting – as soon as reasonably practicable.
- An alternate date required from the original date – within 5 days of the original date.
- Provide a written record (decisions/actions) following a Stage 1 or 2 Meeting – as soon as reasonably possible after the date of meeting.
- Improvement Action Plan, if applicable, following Stage 1 or 2 Meeting – as soon as reasonably practicable after the date of meeting (within 10 days).
- Written Improvement Notice, if applicable, following Stage 1, 2 or 3 Meeting – as soon as reasonably practicable (within 10 days) after the date of meeting.
- Officers' entitlement to submit written comments on any written record of a meeting to the line manager (where no appeal has been lodged) – within 7 days following receipt of the written record of the meeting.
- 'Specified period' of an improvement notice – should normally not exceed 3 months (may be extended but must not exceed 12 months).
- 'Validity period' of an improvement notice – 12 months from the date of the notice within which performance/attendance must be maintained.
- Officer's request for an appeal following the receipt of the written record/improvement notice/action plan following a Stage 1 or 2 Meeting - within 7 days following receipt.
- Appeal Meetings at Stage 1 or 2 – should normally take place within 7 days of the Appeal being received by the second/third line manager (may be extended by a further 5 days however, the officer must be informed in writing and the reason for the extension).
- Written notice of decision following an appeal meeting at Stage 1 or 2 - within 3 days.
- Written notice to attend a Stage 3 Meeting – as soon as is reasonably practicable.
- Third stage meeting will take place no later than 30 days from the date of the notification to officer advising them they will be required to attend a Stage 3 Meeting. (This may be extended beyond 30 days at the direction of a Panel Chair). All parties must be informed of the decision. An alternate date must be within 5 days of the original date.
- Exchange of details of witnesses - no later than 10 days before the meeting
- Officer's response to a Stage 3 notification, e.g. acceptance of unsatisfactory performance/attendance, mitigation, which elements are to be disputed etc – within 14 days of the date on which the notice was issued.
- Officer's objection to the panel members prior to a Stage 3 Meeting – within 3 days following receipt of panel detail notification.
- Provide a written record (decisions/actions) following a Stage 3 Meeting – within 3 days of the meeting.

10.0 Formal Procedure

Having considered the use of informal management action ([see Section 8](#)), where a line manager considers that the officer's performance or attendance is unsatisfactory and it is clear that improvement would not be achievable with a short extension to the current plan(s) in place, the matter will be dealt with in accordance with Stage 1 of the formal procedures. The first line manager, in consultation with the relevant HR Officer/ HR Manager, will arrange a formal meeting with the officer to discuss his/her performance/attendance. In line with the sickness absence procedure, this may also include instances whereby an Individual Support Plan is not met. ([See Section 9.1 for Overview of Formal Procedures](#))

10.1 Notification to attend Stage 1 meeting

The Stage 1 meeting will be held by the first line manager. The relevant Human Resources Officer/Human Resources Manager will attend as an advisor. The first line manager will write to the individual providing at least 10 working days notice of the meeting (UPAP 1 -Letter Template 1). Should an officer or their representative be unable to attend the meeting at the time and date specified by the line manager, the Police Officer may propose alternative arrangements. Providing that the alternative time is reasonable and falls within 5 working days (beginning with the first working day) after that specified by the line manager, the meeting must be postponed to that time.

The letter will confirm the following:

- Date and Time of the meeting
- A summary of the reasons why the line manager considered the performance or attendance unsatisfactory
- The possible outcomes of a first stage, second stage and third stage meeting
- That a HR representative will attend as an advisor
- That prior to the meeting the officer must provide the line manager with any documentation he or she intends to rely on in the meeting
- That he/she may be accompanied at the meeting by a Police friend.

The first line manager will also send the officer a copy of this procedure and any other documentation that will be referred to at the meeting

Should the officer concerned raise a grievance or otherwise object to the manager holding a first stage meeting then the meeting will still be held by the manager. If the officer considers that they have sufficient grounds for appeal, the objection of the officer should be handled in accordance with the appeals process at [Section 17.0](#).

Where the officer concerned does not attend a meeting or where the officer participates in a third stage meeting by video link or other means, s/he may be represented at the meeting by a Police friend, and in third stage meetings (where the process was initiated due to alleged Gross Incompetence); by a relevant lawyer. The meeting may proceed in the officers' absence and a decision made, whether the officer has representation or not.

The officer should also provide the line manager with any documents to which he/she intends to refer at the meeting. Any document(s) that are not submitted prior to the meeting may be considered at the discretion of the line manager e.g. if the document was not available to be submitted in advance. Where a document is permitted to be considered, a short adjournment may be necessary to enable parties present to consider its implications.

10.2 Stage One Meeting

The purpose of the meeting is to hear the evidence of the unsatisfactory performance or attendance and to give the officer the opportunity to respond. It is also an opportunity to hear of any factors that are affecting the officer's performance or attendance and what

the individual considers can be done to address them.

At the meeting the line manager (accompanied by a Human Resources Officer/Human Resources Manager) will:

- explain to the officer the reasons why the performance or attendance of the Police Officer is unsatisfactory;
- provide the officer with the opportunity to make representations in response, listen, ask questions and comment as appropriate
- provide his or her Police friend with an opportunity to make representations
- provide the officer (and/or his or her Police friend) with an opportunity to respond, ask questions and comment as appropriate.

A sufficient written record of the discussions must be made. The meeting may be adjourned at any time if the line manager considers it appropriate to do so.

In circumstances where, having considered representation, the line manager considers the performance or attendance unsatisfactory, he/she must:

- inform the officer in what respect (s) his or her performance or attendance is considered unsatisfactory;
- inform the officer of the improvement that is required in his or her performance or attendance;
- inform the officer that, if a sufficient improvement is not made within the specified period (should not usually exceed 3 months) set by the line manager, he or she may be required to attend a second stage meeting;
- inform the officer that he or she will receive a Written Improvement Notice and a Performance Action Plan.
- inform the officer that if a sufficient improvement in his or her performance or attendance is not maintained during the validity period (12 months from date of notice) of such notice he or she may be required to attend a second stage meeting.
- consider the appropriateness of the continuation of any Competency Related Threshold Payments (CRTP) and advise the officer of the decision as to whether this will continue

Competency Related Threshold Payments

It is acknowledged that Competency Related Threshold Payments (CRTP) are currently being phased out incrementally as part of the Winsor Review of Police Officer Pay and Conditions. However, until the cessation of CRTP on 01 April 2016, the finding or admission of unsatisfactory performance or attendance (including gross incompetence) will not automatically result in the removal of any amount of competency related threshold payment that an officer is in receipt of. However, where an individual has received a Written Improvement Notice or Final Written Improvement Notice, this may trigger a review of the appropriateness of that Police Officer continuing to receive such payments. Any review should take into account the qualifying criteria for payments under these schemes.

10.3 Procedure following the First Stage meeting

As soon as reasonably practicable, the First Line Manager will contact the officer to confirm the decision taken as a result of the first stage meeting. This should be done in writing within 10 days (or as soon as reasonably practical) of the meeting and provide the officer with the following documentation:

- A written record (summary) of the meeting
- Details of a Performance Action Plan (Lotus Notes Database)
- A signed and dated Written Improvement Notice
- Procedure and Contact for submitting an appeal

A copy of the Written Improvement Notice should also be provided to any other relevant parties. (UPAP 10 – Template for Written Improvement Notice).

The officer should also be informed that of their right to submit written comments on the written record of the meeting (within 7 days) provided the officer has not exercised his/her right to appeal.

10.4 Written Improvement Notice (W.I.N)

A Written Improvement Notice is a formal document which contains the details of what needs to improve in terms of an officer's performance or attendance and is supported by a Performance Action Plan.

An Improvement Notice must state:

- In what respect the officer's performance or attendance is considered unsatisfactory
- The improvement in performance or attendance required to enable the Police Officer to reach an acceptable standard;
- A 'specified period' within which improvement is expected to be made
- A 'validity period' of the Written Improvement Notice (12 months)
- The possible consequences if improvement is not made or maintained within the 'specified period' or within the 12 month validity period

A copy of the W.I.N should be retained on the officer's personal file for the length of the validity period and will also be recorded on the Performance Assessment Unit computer system [REDACTED].

10.5 Performance Action Plan

Line Managers should ensure that a Performance Action Plan is completed on the Action Plan Database within Lotus Notes. The Performance Action Plan is used to set out the actions which should assist the Police Officer to perform their duties to an acceptable standard. If possible, the Performance Action Plan should be agreed either at the first stage meeting or at a later time specified by the line manager that is no later than 10 days following the Stage 1 meeting.

It is expected that the officer will co-operate with the implementation of the Performance Action Plan and take responsibility for their own development or improvement. Equally,

the line manager must ensure that any actions to support the officer to improve are implemented.

For cases concerning unsatisfactory attendance the Performance Action Plan should outline the actions and support to assist the officer in improving their attendance at work.

For further information, please refer to the Sickness Absence Policy.

A Performance Action Plan should include:

- identify any weaknesses which may be the cause of unsatisfactory performance or attendance;
- outline what steps the officer must take to improve performance and/or attendance
- Identify and include any support that is available from the organisation e.g. training and support;
- specify stated review period(s) within which actions identified should be followed up; and set date(s) for an assessment/review of the Police Officer's performance or attendance
- Confirm the date of the Improvement Review meeting (end of specified period)

10.6 The Specified Period of a Written Improvement Notice and Performance Action Plan

The 'specified period' of an Improvement Notice and Performance Action Plan is a period specified by the line manager within which the officer must improve his or her performance or attendance. It is expected that the specified period for improvement would not normally exceed 3 months.

However, depending on the nature and circumstances, it may be appropriate to specify a longer or shorter period for improvement. In all cases an improvement notice should not exceed 12 months.

10.7 The Validity Period of a Written Improvement Notice and Performance Action Plan

The 'validity period' of an Improvement Notice is the period of 12 months from the date of the notice within which performance or attendance must be maintained (assuming improvement is made during the specified period). If the improvement is not maintained within this period then the next stage of the procedures may be used.

10.8 Improvement Extensions (Unforeseen Circumstances)

It may be appropriate to extend a Written Improvement Notice, for example, where an officer has been absent from the workplace as a result of certified sickness absence in the context of the performance issue and is unable to demonstrate whether or not the required improvement has been achieved.

Such requests for an extension to a Written Improvement Notice should be referred to the appropriate authority, who in consultation with a Human Resources Representative will review the circumstances leading to the request in order to consider extending the specified period, if is appropriate to do so.

In any such case, unless the appropriate authority (or nominated deputy) is satisfied that there are exceptional circumstances making it appropriate, any such period may not be extended if it would result in the total length of the specified period exceeding 12 months.

11.0 Assessment of Performance/Attendance – Improvement Review Meeting

During both the 'specified' and 'validity' periods, the Officer's performance/attendance must be regularly and actively monitored against the Improvement Notice and Performance Action Plan. During this period, line managers should discuss any concerns that they have as regards the Officer's performance or attendance and offer advice and guidance where appropriate.

As soon as reasonably practicable after the specified period of the Improvement Notice and Performance Action Plan, the line manager, in consultation with a HR Officer/HR Manager must formally assess the performance or attendance of the Police Officer during that period.

If there has been a satisfactory improvement in the Officer's performance and/or attendance, the line manager should acknowledge and encourage the Officer to sustain the improvement. This should be undertaken in writing (See template letter UPAP3). The notification should also inform the Officer that whilst the performance or attendance is now satisfactory, the Improvement Notice is valid for 12 months from the date on the notice, advising that it is possible for the second stage of the procedure (Stage 2) to be initiated if the performance or attendance of the officer falls below an acceptable level within the validity period.

If the line manager considers that the Police Officer's performance or attendance is still unsatisfactory, the line manager should notify the Police Officer in writing of this. The line manager must also notify the Officer that there is now a requirement for him/her to attend a second stage meeting to consider the ongoing performance or attendance issues. (See template letter UPAP 4)

The same process should be undertaken in circumstances where the Officer's performance and/or attendance has fallen below an acceptable level during the remainder of the validity period.

Where an Officer is required to attend a second stage meeting and at that meeting it is found that the performance or attendance of the Officer has improved, he or she can still be required to attend another Stage 2 meeting if they do not maintain their performance within the 12 months that the improvement notice (W.I.N) is valid.

11.1 Stage One Appeals

A Police Officer has a right of appeal against the finding and the terms of the Improvement Notice / Performance Action Plan imposed at stage one of the procedure. Further information regarding the appeal process can be found at [Section 17.0](#).

12.0 Stage 2 Meeting

If following an assessment of performance or attendance at the end of the

specified period set at Stage 1 or during the validity period of the notice the Officer's performance/attendance remains/becomes unsatisfactory, the second line manager, in consultation with the relevant HR Manager/Officer will notify the Police Officer in writing of the requirement for them to attend a second stage meeting.

The process illustrated in [Section 10](#) should be followed. During Stage 2, the second line manager will co-ordinate and chair appropriate activity. It should be noted that a Stage 2 Meeting if required, must be similar to or connected with the unsatisfactory performance or attendance referred to in the Written Improvement Notice issued at Stage 1.

The purpose of a Stage 2 meeting is to hear the evidence of the unsatisfactory performance or attendance and to give the Police Officer the opportunity to put forward their views. It is also an opportunity to hear of any factors that are continuing to affect the Police Officer's performance or attendance and what the Police Officer considers can be done to address them.

The maximum outcome at stage two of the procedure is a Final Written Improvement Notice (F.W.I.N). The Officer concerned should be made aware of the possible outcomes, should the procedure be followed to the final stage (Stage 3) namely:

- Dismissal
- A reduction in rank (Performance cases only)
- Redeployment to alternative duties
- Extension to the Final Written Improvement Notice (one occasion)

12.1 Procedure following Stage 2 meeting

As soon as reasonably practicable following the Stage 2 meeting, the second line manager will contact the Officer to confirm the decision taken as a result of the evidence presented at the meeting. This should be done in writing within 10 days (or as soon as reasonably practical) of the meeting and provide the Officer with the following documentation:

- A written record (summary) of the meeting
- Details of a Performance Action Plan (Lotus Notes Database)
- A signed and dated Final Written Improvement Notice
- Procedure and Contact for submitting an appeal

12.2 Assessment of Performance or Attendance - Improvement Review

At the end of the specified period for stage 2, an Improvement Review will take place with the second line manager and HR Officer/HR Manager in order to review the Final Written Improvement Notice and to assess the performance and attendance of the individual.

Where it is considered that the Police Officer's performance or attendance remains unsatisfactory the second line manager and HR Representative should liaise with the Performance Assessment Unit Manager to discuss the ongoing issues and to initiate Stage 3 of the procedure where applicable.

In such circumstances where it has been agreed that progression to Stage 3 is required, the Police Officer should receive written notification of the requirement to attend a Stage 3 meeting.

12.3 Stage 2 Appeals

Any appeal at Stage 2 should be held in accordance with the process at [Section 17.0](#).

13.0 Gross Incompetence (direct to Stage 3 for performance issues only)

In cases of 'gross incompetence', Unsatisfactory Performance is defined in Regulation 4 of the Police (Performance) Regulations 2012 as:

'a serious inability or failure of a Police Officer to perform the duties of the role or rank he/she is currently undertaking to a satisfactory standard or level, to the extent that dismissal would be justified, except that no account shall be taken of the attendance of a Police Officer when considering whether he has been grossly incompetent.'

This would usually be as a result of a single incident of 'gross incompetence'. A series of acts over a period of time would not initiate the procedures at the third stage.

All cases of potential Gross Incompetence must be referred to the Performance Assessment Unit for assessment and decision.

Having reviewed the relevant documentation and in full consultation with an Executive Officer, it may be necessary for the Performance Assessment Unit to forward the case directly to a Stage 3 Meeting.

The Performance Assessment Unit will establish the facts of the incompetence including possible witness statements and the Officer's response to the incident(s).

If a decision to proceed to Stage 3 is made, the Senior Manager must notify the Officer in writing as soon as is reasonably practicable that he or she is required to attend a Stage 3 Meeting.

13.1 Stage 3 Meeting for Gross Incompetence

The meeting will take place no sooner than 21 days, (but no later than 30 days) following the date of written notification to attend a Stage 3 meeting. The notice will confirm the arrangements for the meeting, including the reason for the meeting, details of the areas of concern and a summary of how this is considered to constitute gross incompetence, and possible outcomes of the meeting. The notice must also advise the individual of the effect of Regulation 6, in that he/she has the right to be legally represented by a relevant lawyer of his/her choice and if an Officer chooses not to be legally represented they may be accompanied at the meeting by a Police friend. Notification must also stipulate that the range of outcomes can be imposed regardless, if legal representation is refused.

The notice must include copies of related documentation to be relied upon by the line manager. The names of the panel members should be provided to the Officer as soon as they have been appointed.

14.0 Stage 3 – Meeting (following Stages 1 and 2)

Following the decision to proceed to Stage 3, the Second Line Manager and HR Officer/HR Manager will provide a written confirmation letter to the Officer informing him/her that they are required to attend a third stage meeting to consider the performance/attendance issues in more detail.

If the second line manager considers that the Officer concerned has failed to maintain a sufficient improvement in his/her performance or attendance during any part of the validity period of the final written improvement notice remaining after the expiry of the specified period, the Officer must be notified in writing of the following:

- 1) The reasons why the performance or attendance is considered to be an insufficient improvement.**
- 2) That the Officer is required to attend a third stage meeting to consider his performance and/or attendance.**

Any third stage meeting which a Police Officer is required to attend must concern unsatisfactory performance or attendance which is similar or connected with the unsatisfactory performance or attendance referred to in the Final Written Improvement Notice.

The Stage 3 meeting will take place no sooner than 21 working days, (but no later than 30 working days) following the date of written notification to attend a Stage 3 meeting. The notice will confirm the arrangements for the meeting referring to the requirement on the Officer to attend with a panel appointed by the Performance Assessment Unit.

The written confirmation will also include the reason for the meeting, details of the areas of concern, possible outcomes of the meeting and to advise the individual that he/she may be accompanied at the meeting by a Police friend.

The notice must also include copies of related documentation relied upon by the Second Line Manager, HR Representative and Performance Assessment Unit (PAU) when the decision was made to progress to Stage 3 of the procedure. The names of the panel members should be provided to the Officer as soon as they have been appointed.

Within working 14 days of the date of the notice, the Officer must provide in writing:

- whether they accept that their performance or attendance has been unsatisfactory or has been grossly incompetent (as applicable);
- in cases of acceptance, any relevant mitigation;
- in cases of non acceptance, or where the Officer disputes some or all of the content of the notice, then the Officer must state the matters for dispute, provide his/her account and/or any argument on points of law he/she wishes to be considered by the panel.

14.1 Panel Membership and Procedure

Panel Membership, appointed by the appropriate authority (see Section 7.0) will be as follows:

- 1st panel member (Chair): A Senior Officer (ACC or above)
- 2nd panel member: Police Officer of at least the rank of Superintendent; or Head of People Services or their nominated deputy (HR)
- 3rd panel member: Police Officer of at least the rank of Superintendent; or Police staff who is at least equivalent to that rank.

At least one of the three panel members must be a Police Officer and one should be a Senior Human Resources professional. Panel members must be of at least the same rank or equivalent to the Officer concerned and may be from another Police service. No panel member will be an interested party.

The role of the Senior Human Resources Professional and Senior Police Officer is to advise the panel e.g. procedures, application etc. A Solicitor may also advise the panel on points of law.

As soon as panel members have been appointed arrangements should be made for copies of all relevant documentation to be forwarded to them. In particular, any document:

- that was available to the line manager in relation to any first stage meeting;
- which was available to the second line manager in relation to any second stage meeting;
- which was prepared or submitted in advance of those meetings;
- which was prepared or submitted following those meetings i.e. improvement notices, performance action plans and meeting notes;
- relating to any appeal

14.2 Objection to panel members

The Officer has the right to object to any panel members appointed and any such objection must be made in writing (within 3 days following panel notification) to the Head of People Services or his/her nominated deputy (or nominated person). The Officer must include the grounds of his or her objection to a panel member (s) in that submission.

The Officer must be informed in writing whether his/her appeal is upheld or rejected.

If the appeal is upheld, a new panel member will be appointed as a replacement. As soon as practicable after any such appointment, the Officer will be informed in writing of the name of the new panel member. If the Officer objects to the new panel member the process must be repeated.

14.3 Special Constables and Stage 3 Meetings

In cases where the Officer is a Special Constable, as indicated above, the constabulary will appoint a member of the special constabulary to attend the meeting to advise the panel. This is for the purpose of fairness so that any significant differences between the role of a regular and Special Police Constable which may have a bearing on the Officer's performance or attendance can be taken into account.

The special constable advising the panel must have sufficient seniority and experience of the special constabulary to be able to advise the panel. The Special Constable advising the panel can be an Officer of another Police Service.

The Special Constable advisor will not form part of the panel and will not have a role in determining whether or not the Officer's performance or attendance is unsatisfactory.

In arranging a third stage meeting involving special constables, consideration should be given to the fact that special constables are unpaid volunteers and may therefore have full time employment or other personal commitments.

14.4 Witnesses and evidence

The attendance of witnesses at Stage 3 should be agreed by the Officer and the senior manager, in consultation with the Head of People Services (or nominated person i.e. Performance Assessment Unit Manager) prior to the meeting. The Panel Chair will make the final decision as to the list of witnesses for both the management and Officer side. All witnesses should be provided with details of arrangements for the meeting.

14.5 Documentation

All documents to be referred/relied upon at Stage 3 should be submitted and exchanged between parties prior to the meeting. Any document(s) that are not submitted prior to the meeting may be considered at the discretion of the line manager e.g. if the document was not available to be submitted in advance. Where a document is permitted to be considered, a short adjournment may be necessary to enable parties present to consider its implications.

14.6 Purpose of the Stage 3 Meeting

The purpose of the meeting is for the panel to hear the evidence of the unsatisfactory performance and/or attendance and to provide an opportunity for the Officer to put forward their case.

At Stage 3, the panel chair will:

- explain to the Officer the reasons why the performance and/or attendance is considered unsatisfactory;
- provide the Officer with the opportunity to make representations in response;
- where the case is one of gross incompetence and the Officer has opted for legal representation, provide the Officer's legal representative with the opportunity to make representations;
- provide the Officer's 'Police friend' with an opportunity to make

representations

The meeting may be adjourned at any time if the Panel Chair considers it appropriate to do so.

A record of the meeting will be made by a sound recording. The Officer will be provided with a copy on request.

14.7 Possible Outcomes of a Stage 3 Meeting

(Following Stage 1 and 2 – NOT Gross Incompetence)

- Redeployment to alternative duties (may involve a reduction in rank);
- Reduction in rank (in the case of performance only)
- Dismissal (with a minimum of 28 days notice) or
- Extension of a Final Written Improvement Notice ¹
- No Action Required

Possible Outcomes of a Stage 3 Meeting

(Direct to a Stage 3 – Gross Incompetence)

- Redeployment to alternative duties (may involve a reduction in rank);
- Issue of a Final Written Improvement Notice ²
- Reduction in rank (with immediate effect);
- Dismissal (with immediate effect) or
- Issue of a Written Improvement Notice ³ (if the panel considers that there has been unsatisfactory performance and not gross incompetence).

The Panel must confirm the decision and their reasons as well as any outcome which they order, to both the Officer and the second line manager (within 3 days). The above notification must be accompanied by details of their right to appeal, the appeals procedure ([Section 17.0](#)) and the name of the individual whom the appeal should be sent.

¹ Extension of a final written improvement notice

Where the panel issues an extension to the Final Written Improvement Notice (Stage 3 Meeting, following Stage 1 and 2 – NOT gross incompetence), a new period must be 'specified' within which improvement to performance or attendance must occur. The 12 month validity period of the Final Written Improvement Notice will apply in full from the date of the notice. If following a Panel Assessment performance/attendance remains unsatisfactory at the end of the 'specified period' or during the remainder of the validity period becomes unsatisfactory, a further Stage 3 Meeting will be invoked. Only one extension to a Final Written Improvement Notice can be issued.

² Issue of a final written improvement notice

In circumstances where the Stage 3 Panel issues a final written improvement notice (Stage 3 Meeting - gross incompetence), a period must be 'specified' within which

improvement to performance or attendance must occur. The 12 month validity period of the final written improvement notice will apply from the date of the notice. If following a Panel Assessment performance/attendance remains unsatisfactory at the end of each 'specified period' or becomes unsatisfactory during the remainder of the validity period, a further Stage 3 Meeting will be invoked.

³ Issue of a written improvement notice

In circumstances where the panel issues a Written Improvement Notice (Stage 3 Meeting - gross incompetence), a period must be 'specified' within which improvement to performance or attendance must occur. A 12 month validity period of the Improvement Notice will also apply from the date of the notice. If following a Panel Assessment performance/attendance remains unsatisfactory at the end of each 'specified period' or becomes unsatisfactory during the remainder of the validity period, a Stage 2 Meeting will be invoked. Please note a Stage 2 Meeting if required, must be similar to or connected with the unsatisfactory performance or attendance referred to in the Written Improvement Notice.

If a further Stage 3 Meeting is convened, the panel should be composed of the same panel members unless it is not possible to do so, in which case the Officer must be informed in writing of any new panel members. The Officer will have the opportunity to object to any new panel member.

An Officer may only be given an extension to a Final Improvement Notice on one occasion. Therefore, where the Officer is required to attend a reconvened Stage 3 Meeting and the panel determines that the performance/attendance remains unsatisfactory, the only outcomes available to the panel are:

- Redeployment to alternative duties (may involve a reduction in rank);
- Reduction in rank (in cases of performance only); or
- Dismissal (with a minimum of 28 days notice).

In cases where an Officer was issued with a Written Improvement Notice (as opposed to a Final Written Improvement Notice) for unsatisfactory performance at a 'gross incompetence' Stage 3 Meeting, the Written Improvement Notice will be equivalent to a Written Improvement Notice at a Stage 1 Meeting. The procedure for assessing the performance will be the same following a Stage 1 Meeting i.e. if no/sustained improvement, progress to Stage 2 meeting.

14.8 Appeals

Any appeal should be held in accordance with [Section 17.0](#).

14.9 Inability to attend a Stage 3 Meeting

If the Officer informs the panel chair in advance that he/she is unable to attend the meeting on grounds which the panel chair considers 'reasonable', the panel chair may allow the Officer to participate in the meeting by video link or other means.

In cases where the Officer is absent (for example through illness or injury) a short delay may be reasonable to allow him or her to attend. If this is not possible or any delay is

considered not appropriate in the circumstances then the panel chair may allow the Officer to participate by telephone or video link. A Police friend will be able to attend the meeting to represent the Officer in the normal way (and, in the case of a gross incompetence meeting, the Officer's legal representative, where appointed).

In cases where the Officer does not attend the meeting and provides no notification, albeit the panel chair is satisfied that good reason for such non-attendance is given by (or on behalf of) the Officer, he or she may postpone, or as the case may be, adjourn the meeting.

The attendance, in person or otherwise, of the Officer is not necessary for Stage 3 Meeting proceedings to be valid. Where a meeting is postponed or adjourned because of absence, the panel chair may nonetheless decide to hold the meeting or resume the meeting.

15.0 Stage 3 Meeting Administration

Any action within the stages of this procedure including the outcome of any meetings will be recorded on the Performance Assessment Unit computer system [REDACTED].

This will include:

- Correspondence relating to all meetings
- A copy of the Performance Action Plan(s)
- Written Improvement Notices
- The line manager's and individual's response (s)
- Written record of meeting(s)
- Written comments by the Officer on the written record
- Appeal documentation
- Personal information to allow compliance with organisational and legislative requirements

Records will be treated as confidential and kept in accordance with Data Protection requirements. Records may be subject to disclosure in the event of any related misconduct action or Employment Tribunal

16.0 Roles and Responsibilities

The Panel Chair will ensure that:

- Stage 3 Meetings are held in accordance with this procedure;
- Assessments of Performance/Attendance are conducted in accordance with this procedure (Following an extension/ issue of a Final/Written Improvement Notice)

The Head of People Services (or nominated deputy) will ensure that:

Advice is provided to panel members during Stage 3 Meetings;

The procedure is kept under review and revised to comply with changes in Police

Regulations and/or at the direction of the Force Executive.

A Senior Human Resources Professional will ensure:

- Consultation with the Performance Assessment Unit is taken in cases where a Decision is required as to whether the matter is misconduct or unsatisfactory performance and progression to Stage 3 meeting;
- Support is provided during Stage 2 Appeal Meetings;
- Advice is provided as to whether a Stage 3 Meeting is convened;
- Advice is provided as to whether a Stage 3 Meeting (Gross Incompetence) is convened;
- Confirm in writing, as to whether Officer's objection to a Stage 3 Panel Member is upheld;
- Witnesses and their attendance are agreed prior to a Stage 3 Meeting;
- Advice is provided to panel members during a Stage 3 Meeting;
- Advice is provided in cases where a referral is made to a Selected Medical Practitioner under Police Pension Regulations.

The Joint Legal Services Representative (or nominated deputy) will ensure that:

- Advice is provided to panel members during Stage 3 Meetings
- Advice is provided on procedure and/or due to changes in Police Regulations

Human Resources Officers/Managers are responsible for ensuring that:

- Line Managers receive advice and support in the operation of the Police Performance and Attendance Procedures;
- The procedure is applied fairly and consistently;
- They are present during Meetings and Appeal Meetings as an advisor;
- All cases are recorded and monitored in accordance with the force Equality and Diversity requirements and other organisational and legislative requirements;
- All documentation is recorded accurately and appropriately;
- Consideration is given to commencing formal procedures, together with the line manager in cases where informal management action has been taken but was declined by the Officer, **or**
- Failed to bring about the necessary improvement in his/her attendance/performance and/or when the Officer is long term sick and despite supportive action having been taken, there is no realistic prospect of a return to work in a reasonable timeframe.
- Advice is sought from Occupational Health and/or Force Medical Advisor where appropriate.
- Assessments of Performance/Attendance are conducted in accordance with this procedure.

Line Managers and Senior Managers are responsible for ensuring that:

- Individual officers are aware of the standards of performance/attendance expected of them and the obligations placed upon them by the force and appropriate action is taken when these standards are not maintained;

- Advice is sought from the relevant HR manager/Officer when considering action under this procedure;
- Any decision(s) following a formal meeting are confirmed in writing, including any Improvement Plans;
- Assessments of Performance/Attendance are conducted in accordance with this procedure;
- Appeals are conducted in accordance with this procedure;
- All documentation is recorded accurately and appropriately;

Individual Officers are responsible for ensuring that:

- They take personal responsibility for their continuous personal development
- every effort is made to return to work at the first opportunity;
- they provide information to enable balanced and appropriate decisions to be made;
- every effort is made to attend a meeting;
- responsibilities under the Sickness Absence/ Unsatisfactory Performance Procedures are adhered to;
- no action is undertaken which may delay the process of recovery and/or this procedure and related procedure;
- consideration is given to seek advice or representation from either a Police 'friend' or association;
- information is provided to comply with the force's Equality schemes and other organisational and legislative requirements

Officer Representatives/Police Friend are responsible for ensuring that:

- Adequate representation is provided at meetings where requested by the Officer, namely to:
 - advise the Officer concerned throughout the process
 - respond on the Officer's behalf to any views expressed at a meeting
 - present and sum up the individual's case
 - make representations concerning any aspect of the procedures
 - (in the case of a Stage 3 Meeting) ask questions of any witnesses

The Officer Representative/Police Friend (including a relevant lawyer in third stage meetings for gross incompetence) may not answer any questions asked of the Officer during a meeting.

Occupational Health, Safety & Welfare Unit are responsible for providing advice on:

- the nature and extent of an Officer's medical/health problems;
- when the medical/health problem is likely to be resolved;
- whether an Officer will be fit to carry out his/her duties on his or her return to work;
- the duties that the Officer may be fit to undertake;
- the Officer's medical/health condition and duties under Equality legislation;
- whether there are any adjustments or adaptations to the work,

- equipment or workplace that might assist in improving attendance / performance;
- the likelihood of the medical/health condition recurring or of some other medical/health condition emerging;
- any concerns raised by the Officer about their medical/health condition and/or working environment;
- whether the Police Officer may be permanently disabled as defined under the Police pension Regulations
- welfare support available to the Officer

(Please note: this list is not exhaustive)

17.0 The Appeals Procedure

A Police Officer has a right of appeal against the finding and the terms of the Improvement Notice imposed at stage one and two of the unsatisfactory performance and attendance procedure. However, any finding and outcome of the first or second stage meeting will continue to apply up to the date that the appeal is determined. Therefore where an Officer contests the finding or outcome at either Stage 1 or Stage 2, they should continue to follow the terms of the Improvement Notice and any accompanying Performance Action Plan, pending the determination of the appeal.

17.1 Appeal Stage 1 and 2

An Officer has the right of appeal against the outcome(s) during any stage of the formal procedures. For Stages 1 and 2 this should be within 7 days of the receipt of the Improvement Notice and written record of the meeting (unless the timescale is extended by the relevant manager following an application by the Officer). The notice of appeal must clearly set out the grounds and be accompanied by evidence for the appeal.

The grounds for appeal are:

- that the finding of unsatisfactory performance or attendance is unreasonable;
- that any of the terms of the Improvement Notice are unreasonable;
- that there is new evidence that could not reasonably have been considered at the first/second stage meeting which could have materially affected the finding of unsatisfactory performance or attendance or any of the terms of the improvement notice;
- that there was a serious breach of the procedures set out in the Police (Performance) Regulations 2012 or other unfairness which could have materially affected the finding of unsatisfactory performance or attendance or the terms of the improvement notice.

17.2 Stage 2 Appeal only

In addition to the above the additional grounds for appeal are:

- that the Police Officer should not have been required to attend the second stage meeting as the meeting did not concern unsatisfactory performance or attendance which was similar to or connected with the unsatisfactory performance or attendance referred to in the Written Improvement Notice that followed the first stage meeting.

Appeal Meetings will normally be held within 7 days of the Appeal being received by the next line manager where practicable:

Stage 1	Second Line Manager
Stage 2	Senior Manager – (Third Line Manager)
Stage 3	Police Appeals Tribunal

Where a Second or Third Line Manager has been involved in previous stages of the process, in order to avoid a conflict of interest at appeal stage, a nominated person must be appointed.

The Officer has the right to be accompanied and represented by a Police friend.
([See Section 16 – Roles and Responsibilities](#)).

17.3 Stage 1 and 2 Appeal Meetings

Following notification of appeal, the relevant manager should write to the Officer to confirm the following;

- the date and time of the meeting;
- a HR Manager/Officer or a Police Officer may attend the meeting to advise the second line manager on the proceedings;
- any other person specified in the notice may attend the meeting;
- the right to seek advice from a representative of his/her staff association; and
- the right to be accompanied and represented by a Police friend.

At the Appeal Meeting, the relevant manager, having considered representations may:

- confirm or reverse the findings of unsatisfactory performance or attendance;
- endorse or vary the terms of the Written Improvement Notice (in such circumstances, any change will be retrospective and apply from the date of the Improvement Notice).

Within 3 days of the conclusion of the appeal meeting, the Officer will be given written notice of the relevant manager's decision. If the chair is in a position to send a written summary of the reasons for that decision, then this may also accompany the written notice of the decision.

In circumstances where the relevant chair sends only the written notice of the decision to the Officer, the chair will send a written summary of reasons for that decision within 5 days.

17.4 Stage 3 Appeals – Police Appeals Tribunal

An Officer has the right of appeal against the outcome of a Stage 3 Meeting. Appeals must be made within 10 working days of the date when the written decision of the stage 3 meeting is received. The appeal will be made to the Police Appeals Tribunal, clearly setting out the grounds for appeal and must be accompanied by evidence for the appeal. Appeals can be made on the following specific grounds:

- that the finding of unsatisfactory performance or attendance is unreasonable;
- that there had been procedural breaches or other fairness which could have affected the decision made;
- that there is critical new evidence that could not reasonably have been considered at previous stages;
- that the Officer should not have been called to attend a third stage meeting as the performance / attendance in question was not connected to the performance / attendance for which the Final Written Notice was issued.

The tribunal panel appointed by the Local Policing Body will consist of:

- A legally qualified chair drawn from a list maintained by the Home Office;
- A member of the Local Policing Body nominated by the Body;
- A serving senior Officer (of ACPO rank)
- A retired Officer of appropriate rank also drawn from a list supplied by the Home Office.

A Tribunal chair will assess whether there is a need to conduct a hearing, or whether the appeal is conducted on a paper basis.

For further information, refer to Annex C of the Home Office Guidance.

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