

**Circular Title: Civil Service Management of Underperformance Policy**

**File Reference: DPE200-006-2016**

I am directed by the Minister for Public Expenditure and Reform to say that the following will apply in relation to managing underperformance in the Civil Service:

Circular Number: 24/2016

Purpose: To set out the arrangements for managing underperformance in the Civil Service

Circular Application: To all civil servants (except new entrants serving in a probationary capacity)

Relevant Law: Civil Service Regulation Acts 1956 – 2005

Effective From: 01 January 2017

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## **Part 1: Purpose and principles**

### **Purpose**

1.1 The purpose of this Circular is to provide a clear framework to help managers to identify and deal with issues of underperformance effectively in the Civil Service. This Circular will apply to all civil servants other than new entrants serving in a probationary capacity.

### **Principles**

1.2 The Civil Service is committed to providing efficient and well-managed services. In circumstances where a concern arises about the performance of an individual it may be necessary to take action under this policy. Where such circumstances arise, all civil servants must be treated in a fair and equitable manner which will normally include:

- the right of a civil servant to be informed of any concern about his or her performance;
- the right of reply to any such concern, if raised;
- The right to be represented (where appropriate) by a serving civil servant or by an official employed by a trade union holding recognition from the relevant Department or Office in respect of civil servants at that grade or rank; and
- the right to a fair and impartial determination of the matter after all relevant facts have been considered.

1.3 Line managers are responsible for making civil servants aware of the acceptable standards of performance expected from them and for dealing with shortcomings promptly and fairly. In general the line manager will deal with any concern on an informal basis, first through discussion and appropriate assistance, before dealing with the matter through this Policy. While it is envisaged that the line manager will have responsibility for performance management, any reference to 'line manager' or 'manager' in the Policy may mean a line manager or a different manager as appropriate to the specific situation.

1.4 All civil servants must comply fully with any underperformance process. A civil servant who fails to comply with an underperformance process, without reasonable cause, will be in breach of his / her terms of employment and will be subject to disciplinary action.

1.5 This Policy is also underpinned by:

- honesty, openness and transparency;
- mutual responsibility;
- accountability;
- clearly specified expectations;
- confidentiality; and
- a safe and supportive working environment.

## **What is underperformance?**

1.6 Underperformance includes, but is not limited to:

- ongoing failure to meet specified, realistic objectives and standards; and
- unsatisfactory work performance, i.e. a failure to perform the duties of the position.

1.7 Underperformance should generally be dealt with through the application of this Underperformance Policy.

1.8 However, there may be circumstances where the conduct of a civil servant could fall under the heading of misconduct<sup>1</sup> or underperformance or both and, in such circumstances, the manager has the discretion to use the Disciplinary Code<sup>2</sup> or this Underperformance Policy to deal with those concerns.

1.9 For example, some types of behaviour (such as lateness) might be regarded as underperformance in one context or misconduct in another. Managers have discretion to apply whichever policy they believe to be appropriate to the circumstances. The fact that certain behaviour could have been addressed within the Underperformance Policy does not preclude it from being addressed under the Disciplinary Code.

## **Incapability to undertake work for health reasons**

1.10 If a civil servant is incapable to undertake work as a result of health reasons then advice should be sought from the HR Unit who will consider appropriate supports, such as referral to the CMO, before deciding upon an appropriate course of action.

## **Role of managers**

1.11 It is the responsibility of line managers to:

- adopt a consistent, effective approach to performance management;
- agree realistic targets;
- monitor and assess a civil servant's performance based on information available;
- tackle any underperformance issues promptly;
- provide regular constructive feedback;
- hold informal meetings to review any issues which arise;

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<sup>1</sup> Misconduct encompasses any type of behaviour that breaches acceptable standards in the workplace. Misconduct may also include inappropriate behaviour outside the workplace which has an impact, or could reasonably be likely to have an impact, within the workplace. Misconduct should generally be dealt with through the application of the Civil Service Disciplinary Code.

<sup>2</sup> Any reference to the Disciplinary Code means the Civil Service Disciplinary Code which is in place at the time of the matter under consideration.

- consider measures aimed at improving a civil servant's performance through training or development;
- design and implement a Performance Improvement Plan (PIP) where underperformance issues persist; and
- review a civil servant's performance at the Mid-Year and End of Year reviews under Performance Management Development System (PMDS).

### **Record keeping**

1.12 When dealing with underperformance, managers should keep records of all meetings and information gathered, including:

- summaries/notes of meetings, discussions or plans relating to underperformance;
- correspondence (including emails) relevant to the underperformance; and
- relevant information / responses provided by the civil servant whose underperformance is being addressed.

1.13 All relevant documents should be retained locally by the manager and relevant documentation should be made available to the civil servant during the process. The manager should ensure that the documentation is provided to any new manager that replaces him or her as the manager of the civil servant for the purposes of this Policy where relevant and appropriate.

### **Timeframes**

1.14 The timeframes outlined in this document should be treated as a guide to all parties involved in the process. All parties should work to address the matter in a timely and efficient manner.

### **Frustration of the underperformance process**

1.15 It is the duty of all civil servants to participate in the process set out in this Policy when required to do so. Where a civil servant fails or refuses (without reasonable cause) to do so, then the manager may decide to deal with non-participation in the process as misconduct under the Disciplinary Code. The manager should seek the advice of the HR Unit when such issues arise.

### **Civil Service Employee Assistance Service (CSEAS)**

1.16 The CSEAS provides free and confidential<sup>3</sup> supports to assist civil servants in managing work and/or life difficulties. The service is available to either the manager or the individual staff member. Managers can contact the CSEAS if they have concerns about a civil servant. The manager will be afforded

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<sup>3</sup> See CSEAS website [www.cseas.per.gov.ie](http://www.cseas.per.gov.ie) for details on confidentiality and exceptions to this.

the opportunity to discuss these concerns in a confidential and supportive environment. The option of referring the civil servant to the CSEAS can also be discussed.

Where a manager is addressing underperformance, attendance or behaviour issues, referral to the CSEAS may be an option to help improve the situation. The manager can either suggest to the civil servant to self-refer to the CSEAS or can formally refer him / her. In cases of formal referrals, confirmation of attendance / engagement will be provided to the referring party and any proposed feedback will be agreed with the civil servant. If the referred civil servant chooses not to avail of the support of the CSEAS, this will be communicated to the referring party. Full details on services available, referral options, confidentiality and useful resources are available on the CSEAS website [www.cseas.per.gov.ie](http://www.cseas.per.gov.ie).

## **Part 2: Addressing issues of underperformance informally**

- 2.1 It is the responsibility of a line manager to agree realistic targets and objectively monitor and assess a civil servant's performance.
- 2.2 Regular constructive feedback should be provided to the civil servant and any signs of performance issues should be tackled promptly.
- 2.3 Where issues of underperformance arise an informal meeting should be arranged with the civil servant to address the issues and attempt to resolve them collaboratively.
- 2.4 At the informal meeting the manager should:
  - provide clarification regarding requirements and expectations e.g. objectives, standards and priorities;
  - advise the civil servant how his / her performance is unsatisfactory and cite specific examples to illustrate this;
  - explore the reasons why there is an issue (see Appendix A for Strategies for dealing with some common reasons for underperformance ); and
  - review support measures which could assist the civil servant to address performance issues e.g. mentoring / training / referral to the Civil Service Employee Assistance Service if personal circumstances are having an impact on performance.
- 2.5 When conducting a meeting to discuss underperformance, it is important to remember that:
  - all feedback should be addressed to concrete examples of the performance;
  - the manager should remain positive and focus on the possibility of improved performance in the future; and
  - at all times, the dignity of the civil servant must be fully respected.
- 2.6 Regular informal meetings should be arranged to monitor and discuss progress.
- 2.7 Most underperformance issues will be resolved informally. However, where issues persist, the steps outlined in Part 3 of this Policy should be followed.

### Part 3: Underperformance Management Process



## Step 1

### • Prepare for a Performance Review Meeting

3.1.1 The Performance Review Meeting should take place when efforts to resolve the matters informally have not been successful. The meeting is used to identify the reasons for underperformance and, where appropriate, to determine whether a Performance Improvement Plan (PIP) should be put in place. In the Performance Review Meeting the manager should set out the underperformance issues; allow the civil servant to respond and discuss the question of whether a PIP may be appropriate.

**Preparation is key to the success of the meeting and it is important that the manager considers the following points in advance.**

#### **Assess the problem**

3.1.2 In order to have an understanding of the issues to be dealt with in the Performance Review Meeting, the manager should consider:

- the type of issue(s) arising;
- how long the issue(s) have existed;
- the implications of the underperformance for unit / divisional / organisational output;
- any negative impact of the underperformance on work colleagues;
- the possible cause(s) of the underperformance; and
- how serious the problem is and whether advice is needed from HR on how best to address the issue.

Note: Some common reasons for underperformance are provided in the table at Appendix A.

#### **Identify specific examples**

3.1.3 The manager should be able to provide specific examples and factual information which clearly demonstrate instances where performance was unsatisfactory, for example:

- poor attendance and/or lack of punctuality i.e. non-compliance with attendance rules and regulations;
- inadequate preparation for work tasks or events;
- poor quantity and / or quality of work output;
- ignoring instructions / advice on how to carry out tasks; and
- deadlines missed (without reasonable explanation).

**Provide notification of the meeting**

3.1.4 The civil servant is entitled to receive reasonable notice of a Performance Review Meeting (normally 2 to 3 working days from issue of the notice). The notification should state:

- the purpose of the meeting; and
- a clear statement of the matter which is the subject of the meeting.

3.1.5 A copy of this Policy should be sent to the civil servant along with the notice of the meeting.

## Step 2

### • Performance Review Meeting

3.2.1 The Performance Review Meeting is the manager's opportunity to identify the reasons for underperformance and determine whether a PIP is required. A PIP is used to assist the civil servant to improve his or her performance to the required standard, within a specified timeframe.

3.2.2 Appropriate notes should be taken at the meeting and copies of these notes (or typed summaries) should be provided to the civil servant in good time (normally 3 – 5 working days) after each meeting.

#### **Manager sets out the underperformance issue(s)**

3.2.3 The manager will begin the meeting by explaining the problem in specific terms. He / she will outline:

- the area(s) in which performance has not been satisfactory;
- factual examples which clearly demonstrate instances where performance was unsatisfactory; and
- what the impact has been (e.g. consequences of missed deadlines, increased workload for colleagues and / or manager, effect on customer service / morale in the workplace etc.).

3.2.4 The manager can, additionally and where appropriate:

- review the civil servant's performance by reference to his or her PMDS Goal Setting form, taking each Key Task in turn and giving positive or negative feedback as appropriate.

#### **Civil servant responds**

3.2.5 The civil servant will be given an opportunity to respond to any concerns raised at the meeting and to answer appropriate questions. The manager should take into account:

- any responses provided by the civil servant;
- any other relevant information known to the manager (which has been shared with the civil servant); and
- details of any mitigating factors.

3.2.6 The manager should discuss the matter further with the civil servant to ensure he or she has a good understanding of the issues.

3.2.7 Where a civil servant refuses to acknowledge that issues exist with his / her performance the manager should specify the acceptable level of performance in relation to each of the relevant tasks / aspects of the job. The manager should also, using examples, identify the areas in which the civil servant's performance has fallen short of this standard. If, following this process, the civil servant continues to refuse to acknowledge his or her underperformance, the manager should consult with the HR Unit.

**Decide on action**

3.2.8 The manager should clearly outline the improvement required and state what he or she considers to be an acceptable approach to resolving the issue(s). The course of action will be decided in the context of the nature of underperformance and taking into account any mitigating circumstances, including health issues.

See the strategies for dealing with some common reasons for underperformance outlined in the table at Appendix A.

3.2.9 Where the manager decides the issues warrant the implementation of a PIP, he / she should proceed to Step 3.

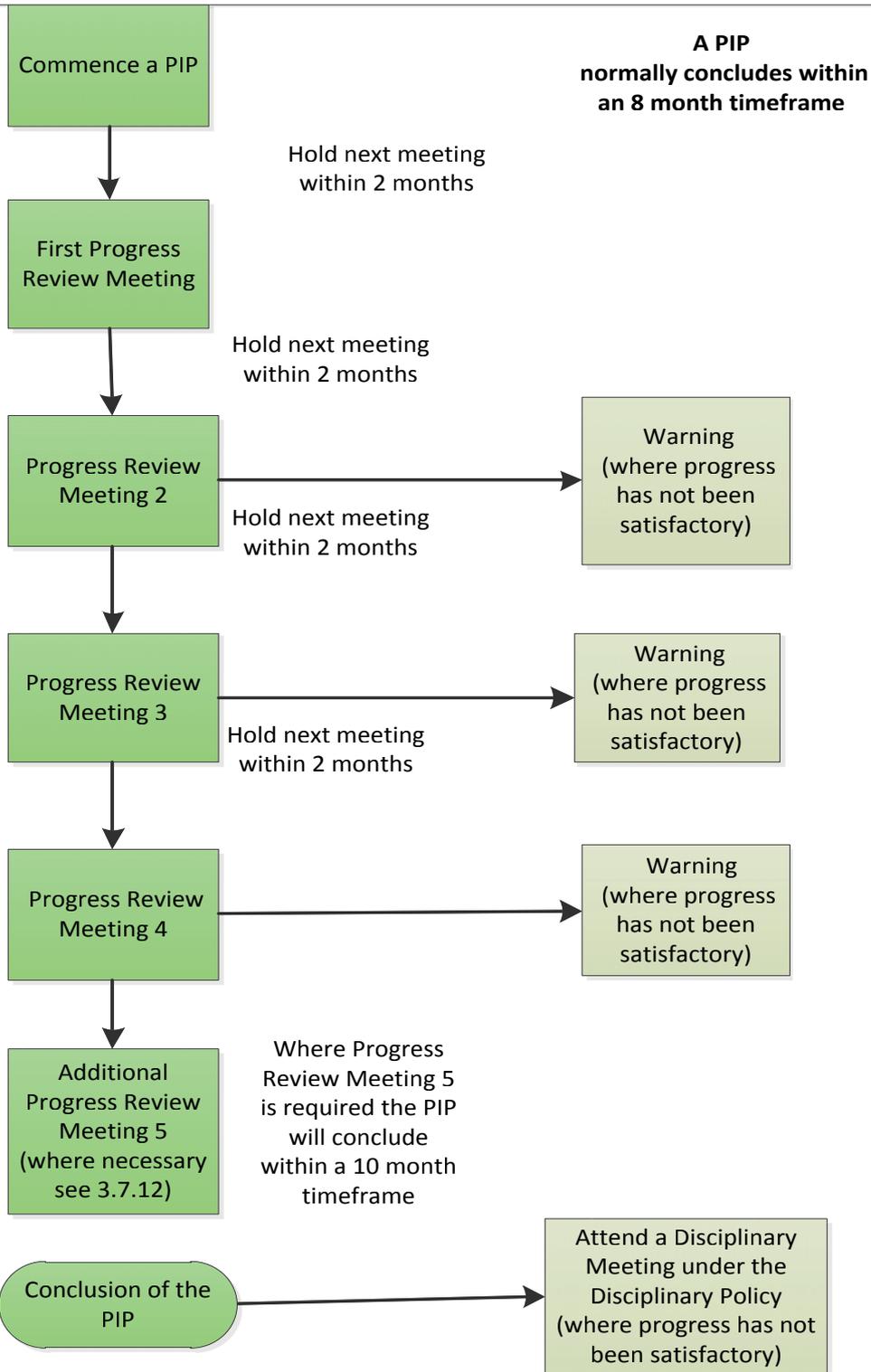
### Step 3

## • Commence a Performance Improvement Plan (PIP)

- 3.3.1 A PIP is an action plan aimed at assisting civil servants who are underperforming to address and correct any issues affecting their work within a set timeframe.
- 3.3.2 Throughout the duration of the PIP, managers should monitor the performance of the civil servant and provide him / her with ongoing, constructive feedback.
- 3.3.3 In addition to ongoing feedback, progress under the PIP will be reviewed at Progress Review Meetings. Up to four Progress Review Meetings will normally be held over the duration of the PIP (See 3.7.12 regarding the extension of a PIP in certain circumstances). A PIP should normally conclude within an eight month timeframe, with a Progress Review Meeting being held at least every two months. (See p.15 for timeframe of a PIP)
- 3.3.4 The manager will draw up an individualised PIP for the civil servant which addresses the issues identified at the Performance Review Meeting. See the sample PIP provided in Appendix B.
- 3.3.5 A PIP should specify:
- the areas where there has been unsatisfactory performance;
  - the progress which is required to be achieved over the period of the PIP;
  - the support measures which will be put in place (e.g. coaching, self-learning, formal training or development etc.);
  - a suggested date for the first Progress Review Meeting (to be scheduled to take place within a 2 month period of the commencement of the PIP). The date for the meeting can be reviewed by the manager and changed where necessary;
  - a statement that, where progress under the PIP is not satisfactory, formal Verbal or Written Warnings will be issued at Progress Review Meetings 2-4 (which equate to warnings provided under the Disciplinary Code);
  - a statement that, where satisfactory progress is not achieved by the conclusion of the PIP, the civil servant will attend a Disciplinary Meeting under the Disciplinary Code and could be liable to disciplinary sanction up to and including dismissal.
- 3.3.6 The manager will prepare the PIP in draft form and consult with HR about its contents before holding the next meeting where the PIP will be provided to the civil servant.

- 3.3.7 The manager should meet with the civil servant to explain that the outcome of the Performance Review Meeting is that a PIP is to be put in place. At this meeting, the manager should present the PIP; explain each element of the PIP and ensure the civil servant understands each element of it.
- 3.3.8 The PIP should be signed and dated by the manager carrying out the meeting and the civil servant. If the civil servant has a serious difficulty in signing the PIP, then both parties may seek advice from the HR Unit. The individual's representative may also consult with the HR Unit on occasion where appropriate.
- 3.3.9 The PIP should be retained locally, with the manager and civil servant each holding a copy of the signed document. A copy of the finalised PIP should also be sent to the HR Unit.
- 3.3.10 The manager should make arrangements for the provision of any coaching / training / development support agreed in the PIP. Where necessary the Training Unit and HR Unit should be contacted to ensure these requirements are put in place promptly.

## Timeframe of a PIP



**Warnings should be issued in a progressive way, commencing at verbal warning then moving to written warning and final written warning. Written warnings may be appealed.**

## Step 4

### • First Progress Review Meeting

3.4.1 The First Progress Review Meeting should normally take place no longer than two months after the commencement of the PIP. The purpose of the meeting is to review the civil servant's progress and discuss his / her performance. The manager should make clear at the meeting whether or not the expected progress and standards are being achieved. This will determine the next steps.

#### **Preparing for First Progress Review Meeting**

3.4.2 It is important that the manager reviews the PIP and specifically considers:

- the progress (if any) made since the commencement of the PIP;
- the support measures (if any) that have been put in place (e.g. coaching, self-learning, formal training or development etc.);
- possible causes of underperformance; and
- if appropriate, specific examples of unsatisfactory performance.

#### **Provide notification of the First Progress Review Meeting**

3.4.3 The civil servant is entitled to receive reasonable notice of the First Progress Review Meeting (normally 2 to 3 working days before the meeting). The notification should state:

- the purpose of the meeting; and
- a clear statement of the matter which is the subject of the meeting.

3.4.4 A copy of this Policy should be sent to the civil servant along with the notice of the meeting.

#### **Holding the meeting**

3.4.5 At the outset of the meeting the manager should review the PIP and discuss and review the performance of the civil servant.

3.4.6 Appropriate notes will be taken at the meeting and copies of those notes (or typed summaries) will be provided to the civil servant in good time (normally 3 - 5 working days) after each meeting.

### **Possible outcomes of the First Progress Review Meeting**

3.4.7 The following decisions may be made by the manager:

- “performance improving” (but need to continue monitoring); or
- “progress not satisfactory” (either because performance has not improved, or because improvement has been unsatisfactory or inconsistent); or
- “performance concerns resolved” (PIP concludes).

### **Performance improving (but need to continue monitoring)**

3.4.8 Where the civil servant has made appropriate improvements the manager should:

- acknowledge areas where improvement has been made;
- specify what improvements are required by the next Progress Review Meeting; and
- review any support / training / development that has been provided and ascertain whether alternative / additional support would be appropriate.

3.4.9 The manager should write to the civil servant and confirm what was discussed at the Progress Review Meeting including:

- the improvements to be made by the next Progress Review Meeting;
- confirmation that failure to achieve the required improvements will result in a Verbal or Written Warning which equates to a Verbal or Written Warning under the Disciplinary Code; and
- the date for the next Progress Review Meeting, which should be held within the next 2 months.

### **Progress not satisfactory**

3.4.10 Where the civil servant has not made satisfactory progress, the manager should, at the meeting:

- provide details and examples of the civil servant’s continuing or further performance issues;
- allow the civil servant an opportunity to respond;
- specify what improvements are required by the next Progress Review Meeting;
- notify the civil servant that failure to achieve these improvements will result in a Verbal or Written Warning which equates to a Verbal or Written Warning under the Disciplinary Code; and
- review the training / development provided and ascertain whether alternative / additional support would be appropriate.

3.4.11 The manager should write to the civil servant and confirm what was discussed at the First Progress Review Meeting including:

- the details and examples of the civil servant's continuing or further performance issues;
- a summary of the civil servant's response (if any);
- the improvements required by the next Progress Review Meeting;
- confirmation that failure to achieve the required improvements will result in a Verbal or Written Warning which equates to a Verbal or Written Warning under the Disciplinary Code;
- the date for the next Progress Review Meeting, which should be held within the next 2 months.

**Performance concerns resolved (PIP concludes)**

3.4.12 In cases where it is found the performance issue(s) have been resolved the manager may conclude the PIP. The manager will inform the HR Unit that the PIP has been completed and inform them of the outcome.

## Step 5

### • Progress Review Meetings 2-5

3.5.1 Similar to the First Progress Review Meeting, the purpose of Progress Review Meetings 2-5<sup>4</sup> will be to review and discuss the civil servant's progress. However, there is a significant difference in the outcomes of the process from Progress Review Meetings 2-5. Where it is found at Progress Review Meetings 2-5 that the civil servant has not made satisfactory improvements in his / her performance, a Verbal or Written Warning may be issued which equates to the same level of Warning under the Disciplinary Code up to and including a Final Written Warning. A PIP should only conclude when performance concerns have been resolved at one of Progress Review Meetings 1-5 or a Level Three Final Written Warning is issued at one of Progress Review Meetings 2-5. Where a civil servant has received a Level Three Final Written Warning the next step will be a Disciplinary Meeting under the Disciplinary Code.

#### **Preparing for Progress Review Meetings**

3.5.2 It is important that the manager reviews the PIP and specifically considers:

- the progress (if any) made since the Performance Review Meeting and First Progress Review Meeting;
- the support measures (if any) that have been put in place (e.g. coaching, self-learning, formal training / development etc.);
- possible causes of underperformance; and
- if appropriate, specific examples of unsatisfactory performance.

#### **Notification of Progress Review Meetings 2-5**

3.5.3 The civil servant is entitled to receive reasonable notice of a Progress Review Meeting (normally 5 working days from issue of the notice). The notification should state:

- the purpose of the meeting with a clear statement of the matter which is the subject of the meeting;
- that the civil servant has a right to be accompanied by a serving civil servant or by an official employed by a trade union holding recognition from the relevant

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<sup>4</sup> A PIP should normally conclude at or before Progress Review Meeting 4. However, a PIP can be extended to include Progress Review Meeting 5 in the circumstances outlined at 3.7.14.

Department or Office in respect of civil servants at the grade or rank of the civil servant;

- that a finding that the civil servant has not made a satisfactory improvement may result in a Warning (Verbal, written or final written as appropriate) which equates to that level of Warning under the Disciplinary Code.

**Performance improving or progress not satisfactory**

- 3.5.4 It should be clear to the manager from ongoing monitoring of the civil servant's performance whether satisfactory progress is being achieved.
- 3.5.5 Where the performance of the civil servant is improving and he/she is making the required improvements the manager should follow the process outlined at Step 5 (a) for holding Progress Review Meetings 2-5.
- 3.5.6 Where satisfactory progress is not being achieved and performance issues are not improving the manager should follow the process outlined at Step 5 (b) for holding Progress Review Meetings 2-5.

## Step 5 (a)

### • Performance improving

#### **Holding Progress Review Meetings 2-5 where performance is improving**

3.6.1. At the outset of the meeting the manager should review the PIP and discuss and review the performance of the civil servant.

3.6.2 Where performance is improving the manager should:

- acknowledge areas where improvement has been made;
- specify what improvements are required by the next Progress Review Meeting (if required); and
- review any training / development provided and ascertain whether alternative / additional support would be appropriate.

3.6.3 Appropriate notes should be taken at the Progress Review Meeting(s) and copies of those notes (or typed summaries) should be provided to the civil servant in good time (normally 3 - 5 working days) after each meeting.

#### **Possible outcomes of the meeting:**

3.6.4 A decision on the outcome of the meeting will be made by the manager. The following outcomes are possible:

- “performance improving” (but need to continue monitoring) – set the date for the next Progress Review meeting; or
- “performance concerns resolved” (PIP concludes).

#### **Notification of the outcome**

3.6.5 The manager should notify the civil servant of the outcome of the meeting and the reasons for the decision.

3.6.6 The manager will inform the HR unit if the PIP has concluded and inform them of the outcome.

#### **Where satisfactory progress is not maintained for the duration of the PIP:**

3.6.7 Where an earlier Progress Review Meeting led to the “performance improving” outcome but satisfactory progress is not maintained and performance deteriorates or does not continue to improve the manager should move to the process outlined in Step 5 (b) for the next Progress Review Meeting.

## Step 5 (b)

### • Progress not satisfactory

#### **Holding Progress Review Meetings 2-5 where progress is not satisfactory**

3.7.1 At the outset of the meeting the manager should review the PIP and discuss and review the performance of the civil servant.

3.7.2 Where progress is not satisfactory the manager should:

- provide details and examples of the civil servant's continuing or further performance issues;
- allow the civil servant an opportunity to respond;
- specify what improvements are required by the next Progress Review Meeting; and
- review any training / development provided and ascertain whether alternative / additional support would be appropriate.

3.7.3 Appropriate notes should be taken at the Progress Review Meeting(s) and copies of those notes (or typed summaries) should be provided to the civil servant in good time (normally 3 - 5 days) after each meeting.

#### **Possible outcomes:**

3.7.4 Following the Progress Review meeting the manager will decide on the outcome. The following outcomes are possible:

- A Verbal or Written Warning is issued which equates to that level of Verbal or Written Warning under the Disciplinary Code; or
- No Verbal or Written Warning is appropriate at this time<sup>5</sup>.

#### **Verbal or Written warnings**

3.7.5 Warnings will normally be issued on a progressive basis. Where it is decided, following any of the Progress Review Meetings 2-4, that a Verbal or Written Warning is warranted, a Level One Verbal Warning will normally be issued first. If it is found at a later Progress Review Meeting that performance has still not improved to a satisfactory

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<sup>5</sup> A Warning will usually be issued where a civil servant has not made satisfactory progress, however, if the manager concludes that there are mitigating circumstances that have prevented the civil servant from making the required improvements then it is left to the manager's discretion whether or not to issue a Written Warning in that instance. It is unlikely to be appropriate to exercise this discretion on more than one occasion during a PIP. For example, where the civil servant has reached Progress Review Meeting 4 without the concerns being resolved then some form of warning should have been issued to the civil servant. If a warning has not previously been issued then a warning should issue at Progress Review Meeting 4 in such cases.

level a Level Two Written Warning will be issued. Where underperformance continues a Level Three Final Written Warning will be issued at the following Progress Review Meeting.

3.7.6 While it is likely that underperformance will be dealt with in the progressive manner outlined above, the manager may issue a higher level of warning (Level Two or Level Three Final Written Warning) at any of the Progress Review Meetings 2-4 where the civil servant's underperformance is sufficiently serious, where the civil servant previously concluded a PIP and the performance issues recur or where the civil servant received a Warning (under this Policy or under the Disciplinary Code) prior to the current PIP).

3.7.7 Verbal or Written warnings will be kept on the civil servant's personnel file and, subsequent to satisfactory improvement, will become inactive after the time frames set out below:

- Level One Verbal Warning – 6 months
- Level Two Written Warning – 12 months
- Level Three Final Written Warning – 24 months

#### **Notification of the outcome**

3.7.8 The manager should notify the civil servant of the outcome of the meeting and the reasons for the decision. If a Verbal or Written Warning is issued then the civil servant should be informed of the level of the Warning, the period for which the warning will be active, the improvement required, the date of the next Progress Review Meeting, the consequences of failure to improve (which may result in a Written Warning at Level Two or Three as appropriate) which equates to that level of Written Warning under the Disciplinary Code.

3.7.9 Where a Verbal or Written Warning has been issued the manager should notify HR of the level of warning and the period for which the warning will be active.

#### **Right of appeal**

3.7.10 Where a civil servant has been given a Level 2 Written or Level Three Final Written Warning the manager should notify the civil servant of the right to appeal as set out in the Appeals Process of this Policy (See Appendix F).

#### **Where performance begins to improve**

3.7.11 Where the performance of the civil servant begins to improve between any of the Progress Review Meetings 2-5, and he/she is making the required improvements, the manager should move to the process outlined at Step 5 (a) for the next Progress Review Meeting.

### **Extension of a PIP - Progress Review Meeting 5**

3.7.12 As noted above, a PIP should normally conclude at or before Performance Review Meeting 4 and should conclude on the basis that concerns have been resolved at one of Progress Review Meetings 1-4 or a Level Three Final Written Warning is issued at one of Progress Review Meetings. However, an extension is allowed in the following circumstances.

Where, at or before Progress Review Meeting 4, a civil servant has received a Level One Verbal or Level Two Written Warning during the course of the PIP, and the manager determines at Progress Review Meeting 4 that the underperformance issues have not been fully resolved, the manager can extend the PIP. An additional Progress Review Meeting 5 should be held within the next two months.

3.7.13 Where it is necessary to provide a Progress Review Meeting 5 the manager should take the following steps:

- The manager should prepare for the meeting – as 3.5.2
- The manager should notify the civil servant – as 3.5.3
- The manager should hold the meeting, review the PIP and discuss and review the performance of the civil servant
- Appropriate notes should be taken at the meeting and copies of those notes (or typed summaries) should be provided to the civil servant in good time after each meeting.
- The civil servant should be notified of the outcome and next steps.

3.7.14 Following the Progress Review Meeting the manager will decide on the outcome. The following outcomes are possible:

- “performance concerns resolved”; or
- “progress not satisfactory” (either because performance has not improved, or because improvement has been unsatisfactory or inconsistent). Where progress is found not to be satisfactory a Level Three Final Written Warning will be issued (notwithstanding the fact that the civil servant may not have received a Level Two Written Warning previously).

## Step 6

### • Conclusion of a PIP

3.8.1 A PIP will conclude when:

- performance concerns have been resolved at one of Progress Review Meetings 1-5; or
- a Level Three Final Written Warning is issued at one of Progress Review Meetings 2-5.

#### **Possible outcomes of a PIP:**

3.8.2 The following outcomes are possible:

- “Successful” – all improvements required have been delivered; or
- “Unsuccessful” – satisfactory progress has not been achieved and a Level Three Final Written Warning has been issued.

#### **Notification**

3.8.3 The civil servant will receive written notification of the outcome of the PIP.

3.8.4 Where a civil servant receives an unsuccessful outcome, the notification will state that the civil servant must attend a Disciplinary Meeting in accordance with Step 3 of the Disciplinary Code.

3.8.5 The Disciplinary Meeting should normally occur not later than two months after the conclusion of the PIP. The civil servant should be provided with an opportunity to improve during the period of time between the last Progress Review Meeting and the Disciplinary Meeting and should be provided with appropriate support by the manager.

3.8.6 The manager and civil servant should refer to the Disciplinary Code for the rights and obligations relevant at that stage (including any disciplinary action and right of appeal that may arise).

3.8.7 The manager should notify the HR Unit that the PIP has been completed and inform them of the outcome.

**Part 4: Follow up action where performance lapses following successful completion of a PIP**

- 4.1 Where a civil servant has successfully completed a PIP but further performance issues arise subsequently, action should be taken promptly. An additional PIP should be put in place. The duration of the additional PIP may be shorter and the manager may commence the process at Progress Review Meeting 1, 2, 3, or 4 where it is appropriate to do so.
- 4.2 In cases where the civil servant received a warning at any stage from a previous PIP, he/she will normally continue from the stage at which they received the warning.

## **Part 5: Support for managers**

- 5.1 Managers can expect support in dealing with underperformance from:
- his or her manager;
  - the HR Unit;
  - the Civil Service Employee Assistance Service (CSEAS); and
  - the Disability Liaison Officer (DLO).
- 5.2 A manager who is engaged in the formal process of managing underperformance will receive advice, support and back up from his / her manager.
- 5.3 The HR Unit is also available to advise the manager and should have a nominated appropriate person as the contact person for managers in this regard.
- 5.4 The services of the CSEAS will be available to the manager as required. See para 1.16 on the CSEAS.
- 5.5 The Disability Liaison Officer can be contacted where issues involving disability are concerned.

### Appendix A: Strategies for dealing with some common reasons for underperformance

Issue	Some of the possible causes	Actions**
<p>Civil servant does not undertake work as required, shows lack of commitment or effort</p> <p>Civil servant appears not to understand job requirements or directions</p> <p>Civil servant will not follow directions or perform tasks as required</p>	<p>Lack of clarity regarding requirements and expectations</p> <p>Failure to understand what is required</p> <p>Job content &amp; design</p> <p>Personal or external issues</p> <p>Lack of knowledge/skills/competencies</p>	<p>Begin with informal discussion about performance issue(s)</p> <p>Clearly outline the performance requirements and contributions expected</p> <p>Focus on interest in work tasks, and how they might be improved</p> <p>Refer to EAS if personal circumstances are impacting performance</p> <p>Identify training and development opportunities as part of the PIP</p>
<p>Civil servant does not complete work tasks to the required standard</p>	<p>Lacks the required skills and capabilities</p>	<p>Identify training and development opportunities as part of the PIP</p>
<p>Civil servant has a negative attitude in the work environment</p>	<p>Has become disillusioned with work environment</p> <p>Fails to understand value of work being undertaken</p>	<p>Establish team culture based on respect and support</p> <p>Re-establish the importance of the role, and the value of outcomes delivered by the organisation</p> <p>If possible, explore opportunities for career transition and movement</p> <p>Identify cause behind absenteeism</p>
<p>Civil servant has time and attendance issues, i.e. non-compliance with work attendance policy/system</p>	<p>Personal or workplace issues</p> <p>Job content and design</p> <p>Inappropriate job fit</p> <p>Management style</p>	<p>Explore possible strategies for job redesign, job fit, changes to working arrangements, management of health issues</p> <p>Re-establish expectations of attendance</p>

Civil servant refuses/fails to acknowledge they are underperforming	Performance issues have not been adequately explained  Process has not been adequately applied  Civil servant does not accept management assessments	Refer to EAS if personal circumstances are impacting performance  Use evidence of how performance has failed to meet expected standards, outline what the impact has been, re-establish expected outcomes  Consult with HR unit if the civil servant continues to refuse to acknowledge underperformance
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\*\*Where it is considered appropriate, the manager should remind the civil servant of the support available from the CSEAS – see para 1.15.

Other possible causes of underperformance than the ones specified may exist. For example, issues may arise because a civil servant is medically incapable of fully performing his or her duties. They may also arise where the civil servant is able to perform adequately but chooses not to. In such cases, the manager would not address the issues within this Management of Underperformance Policy, but may use other appropriate processes after discussing the options with the HR Unit.

## Appendix B: Sample Performance Improvement Plan (PIP)

**TO:** (insert civil servant's name)

**FROM:** (insert manager's name)

**DATE:** (insert date)

The purpose of this Performance Improvement Plan (PIP) is to identify issues of concern and detail areas where work performance does not meet required standards. The purpose of this PIP is to clarify what performance improvements are to be achieved by the civil servant in the stated timeframe(s) and the supports which will be put in place to assist the civil servant to make the improvements.

### Performance Concern(s):

*Please list specific issues of concern – including any consequences of the underperformance, such as consequences for colleagues, the Department/Office and/or for members of the public.*

### Previous Discussion(s):

*Briefly recap dates/times when the issues noted above have been raised with the civil servant. Reference any previous documents if applicable.*

**Step 1: Expected standard of performance and improvement action / progress required over the period of the PIP**

*This section should detail what is expected of the civil servant in terms of performance and outline what actions need to be taken to meet this standard. For example, it is expected that a civil servant should manage their workload effectively, while a corresponding improvement action may be to respond to email within a specified period.*

Expected Standard	Action / Progress Required
1.	
2.	
3.	
4.	

**Step 2: Resources and Supports**

*This section should list what support measures are to be provided to assist the civil servant achieve the expected standard of performance (e.g. coaching, self-learning, formal training or development etc).*

1.	
2.	
3.	

**Step 3: Review**

*A date should be set for the First Progress Review Meeting (to be held within the next two months)*

Date	First Progress Review Meeting
1.	

**Timeline for Improvement, Consequences & Expectations:**

This PIP is effective immediately, and it is expected that work performance will improve in accordance with the details set out above. This process is founded on the expectation that the civil servant will achieve the specified improvements. However, where satisfactory improvement is not achieved, the civil servant should be aware that formal Verbal or Written Warnings may be issued at Progress Review Meeting 2 onwards (which equate to warnings provided under the Disciplinary Code). Where satisfactory progress is not achieved by the conclusion of the PIP the civil servant will receive a Level Three Final Written Warning. The next step will be for the civil servant to attend a Disciplinary Meeting under the Disciplinary Code and the civil servant could be liable, at that stage, to a further disciplinary sanction, up to and including dismissal.

**Signatures:**

Print civil servant name: \_\_\_\_\_

Civil servant signature: \_\_\_\_\_

Date: \_\_\_\_\_

Print manager Name: \_\_\_\_\_

Manager Signature: \_\_\_\_\_

Date: \_\_\_\_\_

## Appendix C

### Sample Progress Review Meeting Evaluation Sheet

Date: \_\_\_\_\_

<b>Name</b>	Grade
<b>Section</b>	Manager

	Performance improving	Performance concerns resolved	Progress not satisfactory	Reasons	Warning Issued
<b>Progress</b>					

**Comment Box**

Date set for next Progress Review meeting: \_\_\_\_\_

Signed (Civil servant): \_\_\_\_\_ Date: \_\_\_\_\_

Signed (Manager): \_\_\_\_\_ Date: \_\_\_\_\_

## Appendix D

### Template letter - notification of a Progress Review meeting

#### Private and Confidential

Name  
Address

Date

**RE: *Civil Service Underperformance Policy***

Dear X

I refer to [Set out details of previous meetings held under the PIP and specifics with regard to the issues of underperformance.]

I request that you attend a Progress Review Meeting under the Civil Service Underperformance Policy.

The purpose of the meeting is to discuss [set out the specific underperformance issues to be discussed].

The meeting is arranged for X (time and date). It will be held in X (location).

You will be provided with an opportunity to respond to any issues of performance outlined above and to present any mitigating circumstances or evidence you have in this regard.

**[For First Progress Review Meeting there is no need to reference any specific sanction as no warning can be given.]**

**[For Second (and subsequent) Progress Review Meetings insert the following:** If it is found that satisfactory progress has not been made since the last Progress Review meeting a Level One Verbal Warning, a Level 2 Written Warning or a Level Three Final Written Warning and may be issued which equates to warnings under the Disciplinary Code.]

**[For Second (and subsequent) Progress Review Meetings insert the following:** You are entitled to be represented by a trade union official or colleague of your choice at this meeting.]

Please confirm that you will be able to attend this meeting on the attached confirmation document.

Yours sincerely,

---

Dear X,

I, \_\_\_\_\_ acknowledge receipt of this notification to attend a Progress Review Meeting on X (time and date), and confirm that I will / will not attend this meeting as arranged.

Yours sincerely,

\_\_\_\_\_

Civil servant's Name

Date

## Appendix E: Template letter – notification of a Verbal or Written Warning

Name

Address

**Private and Confidential**

**Addressee only**

Date

**RE: Civil Service Underperformance Policy**

Dear

I refer to the Progress Review Meeting on X date held under the Civil Service Underperformance policy. **[If the civil servant was entitled to be accompanied / represented at the meeting: You were accompanied / represented by XXXX at the meeting OR You were informed of your right to be accompanied / represented but decided not to be accompanied / represented. Delete as appropriate.]**

At that meeting we discussed your underperformance, in particular;

- XXX ,
- XXX
- XXX

You were given an opportunity to respond to the issues put to you.

You stated that.....

Having reviewed the matter and taken into account your response, I am satisfied that the lack of progress made under the Performance Improvement Plan warrants a Verbal or Written Warning. Therefore, I am providing you with a Level X Verbal or Written Warning in accordance with the Civil Service Underperformance Policy, which equates to the same level of warning under the Civil Service Disciplinary Code.

The record of this Verbal or Written Warning will be kept on your file for X months. Following this time, the warning will become inactive.

**[Where there is the option of a further Progress Review Meeting insert the following:** Your next Progress Review Meeting will be held on X. Failure to satisfactorily address issues of underperformance and demonstrate improvement may result in a Level X Verbal or Written Warning. **[Where the civil servant receives a Level Three Final Written Warning insert the following:** The PIP has now concluded and you have received a Level Final Three Written Warning. You will be provided with a further period of X to improve your performance and, at the end of that period, you will be called to a Disciplinary Meeting under the Civil Service Disciplinary Code. If your performance has not improved to a satisfactory standard when assessed at that Disciplinary Meeting you may be subject to a further disciplinary sanction, up to and including dismissal.]

Yours sincerely,

---

## **Appendix F - Appeal from a Written Warning issued under the Underperformance Policy**

F1 An appeal to an Appeals Officer is available from a Level 2 to a Level 3 Final Written Warning which has been given following a progress review during a PIP. The Appeals Officer will be a senior manager with no prior involvement in the case.

### **Grounds for Appeal**

F2 A civil servant may lodge an appeal on one or more of the following grounds, providing specific details of each ground are relied upon:

- (a) the provisions of this policy were not adhered to;
- (b) all the relevant facts were not ascertained;
- (c) all the relevant facts were not considered, or not considered in a reasonable manner;
- (d) the civil servant was not afforded a reasonable opportunity to defend his or her performance;
- (e) the civil servant could not reasonably have been expected to have understood that the relevant performance issues could give rise to a Level Three Final Written Warning,
- (f) the issuing of a Level Three Final Written Warning was disproportionate to the level of underperformance.

### **F3 Timeframes for lodging an appeal**

Notification of the intention to appeal warnings under this policy must be made to the Appeals Officer, and copied to the line manager, in writing no later than five working days from the date of notification of the warning.

All documentation relevant to the appeal should be submitted to the Appeals Officer, and copied to the line manager, in writing not later than seven working days from the date of the intention to appeal.

### **F4 Outcome of the Appeal**

The outcome of the appeal process shall be one of the following:

- a. Appeal unsuccessful - uphold the warning;
- b. Appeal successful - determine that warning shall not be applied;
- c. Appeal identifies the need for the case to be reconsidered by the Manager to remedy a specified deficiency in the proceedings.

F5 The decision of the Appeals Officer shall be final.

### **F6 External Appeals Process**

- a. A civil servant may refer a case which has been subject of an appeal, to an appeals officer, for adjudication

- b. This option applies for written warnings which have been applied in the course of this policy
- c. Ordinarily, it is expected that the recommendation of the Adjudication Officer will be taken into account.