

DATA LABEL: OFFICIAL



COUNCIL EXECUTIVE

SUPPORTING PERFORMANCE FRAMEWORK

REPORT BY HEAD OF CORPORATE SERVICES

A. PURPOSE OF REPORT

To present to Council Executive a framework to support staff (non – teaching) achieve improved performance.

B. RECOMMENDATION

That Council Executive:

1. Approves the framework set out in Appendix 1 of this report: and
2. Notes that it has been requested by the recognised Trade Unions that following implementation the framework is kept under review with the option to make amendments as necessary.

C. SUMMARY OF IMPLICATIONS

- | | |
|---|--|
| I Council Values | <ul style="list-style-type: none">• Focusing on our customers' needs• being honest, open and accountable• providing equality of opportunities• making best use of our resources |
| II Policy and Legal (including Strategic Environmental Assessment, Equality Issues, Health or Risk Assessment) | <p>The proposed framework reflects ACAS guidance on managing employee performance.</p> <p>The Equality Act 2010 requires the council to take account of the impact of its policies functions, activities and decisions on employees from protected groups. An Integrated Impact Assessment has been conducted on the proposed framework.</p> |
| III Implications for Scheme of Delegations to Officers | None |
| IV Impact on performance and performance Indicators | The proposed framework is designed to manage and support employee performance and maintain service delivery standards. |

V	Relevance to Single Outcome Agreement	Failure to effectively manage individual performance can impact adversely on the council's ability to meet its strategic service objectives.
VI	Resources - (Financial, Staffing and Property)	None
VII	Consideration at PDSP	The draft framework was considered at PDSP on 7 February 2020.
VIII	Other consultations	Consultation has taken place with the council's recognised trade unions.

D. TERMS OF REPORT

D.1 Background

A key element of the council's People Strategy 2018/23 is to promote a performance culture and encourage individuals to develop themselves, providing support and learning for those whose performance falls below required standards.

The council has in place processes that support staff in achieving improved performance in the form of the Teachers Competency Framework and the Policy and Practice on Supervision of Social Policy staff. However there are currently no equivalent arrangements in place for other non – teaching staff. Whilst used infrequently, the only mechanism available to managers to address under performance in this employee grouping is the council's disciplinary procedure.

In a benchmarking exercise, thirteen other councils confirmed that they had a Capability and Performance framework in place, typically a three stage incremental process which in the majority of cases, applies independently of their disciplinary procedures.

The proposed Supporting Performance Framework attached as Appendix 1 to this report will ensure a standard approach to employee performance management across non-teaching roles and will ensure individuals receive structured and clear feedback when performance improvement is required. In this regard the framework highlights the need to clearly record what is agreed between the manager and employee and also for a reasonable period of time to be afforded to the employee to demonstrate improved performance.

D.2 Difference Between ADR Process and Performance Framework

It is important to draw a distinction between the purpose and aims of the council's existing ADR process and the proposed Supporting Performance Framework.

The council's Appraisal and Development Review (ADR) process is underpinned by a Competency Framework that sets out core behaviours associated with effective performance for jobs at all levels in the authority. The framework is regarded as a positive and motivational tool which emphasises positive engagement with employees with the following purposes;

- To communicate and agree work outcomes and performance standards

- To give and receive feedback on all aspects of performance
- To identify development needs based on core and job specific competencies
- To implement and monitor performance improvement and development plans

The engagement process involves an annual cycle of performance reviews for all employees across the council directly linked to the councils corporate and service planning process.

While the ADR process by its very nature is likely to touch upon strengths and weaknesses in an individual's performance; it is not the mechanism for addressing fundamental under – performance.

Any corrective management intervention required in the latter circumstances sits more appropriately under a separate performance management process to be invoked on an 'as required' basis where an individual's work performance dips below satisfactory levels. It is proposed that the Supporting Performance Framework would fulfil this purpose and by definition, unlike the cyclical nature of the ADR process, would not require to be frequently invoked.

Although the ADR process and the proposed Supporting Performance Framework are designed to address employee engagement and performance from different perspectives, the overall aim of both is to ensure the delivery of efficient and effective public services.

D.3 ACAS Guidance

ACAS stress the need for regular performance reviews and support to help minimise under-performance. However it is recognised that where an employee's performance consistently fails to reach the required standard despite receiving support, then line managers must be prepared to hold frank and pointed conversations with under-performing individuals and in order to do so they require to be trained accordingly.

ACAS further advise that where informal approaches fail, it may be appropriate to take more formal action which could eventually result in dismissal if employees do not make the necessary improvement. Where this is the case, an employer is advised to follow its disciplinary procedure (or the capability procedure if there is one).

In cases of unsatisfactory performance, the first formal stage should include setting out the following matters in writing;

- The areas of under- performance
- The improvement that is required
- The timescale for achieving the improvement
- A review date
- Any support, including any training, that the employer will provide to assist the employee

The employee should be advised of the action that will be taken if they fail to improve. For example, the next stage in the employer's procedure may be a final written warning and, ultimately dismissal.

Employment tribunals are legally required to take the ACAS Code of Practice on disciplinary and grievance procedures into account when considering relevant cases.

Tribunals will also be able to adjust any compensatory awards made in these cases by up to 25% for unreasonable failure to comply with any provision of the Code.

D.4 Capability & Performance – Key Issues

A Focus Group was held with managers, a number of whom had first-hand experience of dealing with under-performing staff members. The group discussed some of the practical issues involved in trying to manage such cases with a view to identifying how a uniform process for dealing with performance and capability might assist managers in those circumstances.

It was agreed that there were a number of key factors that required to be considered in developing a Supporting Performance Framework for the council;

- The need to be able to define what constitutes satisfactory performance given that under-performance can only be assessed with reference to that measure.
- That there is no 'one size fits all' approach in terms of individual performance assessment and any improvement plans and timescales agreed with individuals must reflect the nature and complexity of the job and align with any existing standards of professional practice (e.g. supervision arrangements in Social Policy).
- That while each individual case of performance management would be dealt with according to its own merits as indicated above, the same, common process framework should be adopted uniformly across the council to ensure consistency of application.
- Clarification on the interface that the performance and capability process would have with other key council employment policies and procedures including the disciplinary procedure, the ADR process and the Policy on Supporting Attendance at Work.
- That in keeping with ACAS guidance and in common with the approach applied to the introduction of the ADR process, adequate training is provided to managers.

D.5 Raising Awareness, Training and Support for Managers

It is recognised that the introduction of a Supporting Performance Framework will require to be supported by appropriate awareness raising, training and support for managers and supervisory staff and that training content will require to be targeted to those officers responsible for performance management at the various levels of delegated authority within services. This would be similar to the approach adopted for delivering the training on the Policy on Supporting Attendance at Work.

Raising awareness of the Framework would be undertaken in the usual manner which involves briefings at Service Management Teams and Employee Information Briefing Scripts.

The HR Learning and Development Team currently run Bite-Size sessions on subjects such as Managing Performance Improvement, Discipline and Grievance Handling and Dealing with Sensitive Conversations which will be modified to accommodate the introduction of a Supporting Performance Framework.

The training will provide managers with advice on dealing with staff that are underperforming and in particular how to distinguish between conduct/poor attitude as opposed to genuine lack of capability/ ability and the appropriate procedural route to be taken in each case.

As it is anticipated that the framework will be used infrequently, the HR Policy and Advice team will also provide direct support to managers on its application.

D.6 Review

During consultation with the recognised Trade Unions it was generally agreed that implementation of the framework will be helpful in supporting employees to maintain the required standards of performance. However, a minor concern was expressed in relation to the structure of the Performance Review and Record Action Plan.

The Performance Review and Record Action Plan requires managers to identify and evidence under performance, to agree with employees what actions and support are required to improve performance and record progress against such actions at interim meetings. A final review meeting will be held to identify and evidence whether the employee has achieved or failed to achieve the necessary performance improvement.

Managers conducting performance review meetings and completing the Performance Review and Record Action Plan will be required to undergo training and will supported by members of the Human Resources team to ensuring that plans provide clarity for employees on the standards of performance required.

As a result, the recognised Trade Unions have agreed to the implementation of the framework with an option to review if the plans implemented by managers prove not to provide the clarity required to support performance improvement.

E. CONCLUSION

The Supporting Performance Framework has been developed to address an identified gap in the council's current employment policy and procedures and to implement a key action in the council's People Strategy to support underperforming employees and improve their performance.

The proposed framework is intended to provide a uniform and structured process for dealing with unsatisfactory employee work performance and is regarded as a more appropriate mechanism for doing so than the Disciplinary Procedure particularly where unsatisfactory performance cannot be attributed to any conduct related issue.

Unlike the council's ADR process which is a cyclical system of ongoing appraisal and employee development, the Supporting Performance Framework is a tool to be used in cases of individual under-performance and as and when they arise and as such the expectation would be that it is not invoked on a frequent basis.

F. BACKGROUND REFERENCES

- How to Manage Performance – ACAS Guidance
- Benchmarking Information – Other Local Authorities

Appendices/Attachments: Appendix 1 – Draft Supporting Performance Framework

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Supporting Performance Framework



Approved Council Executive:

WEST LoTHIAN COUNCIL

SUPPORTING PERFORMANCE FRAMEWORK

(Covering all employees except the Chief Executive and Teachers)

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WEST LoTHIAN COUNCIL

SUPPORTING PERFORMANCE FRAMEWORK

(Covering all employees except the Chief Executive and Teachers)

1. PURPOSE

- 1.1 The Supporting Performance Framework aims to promote fairness, equity and consistency in the management of employee performance. The framework is a means of supporting employees to meet and maintain the required standards of performance as outlined in relevant job descriptions, person specifications, professional competencies and council values.
- 1.2 During their induction period, employees should be told what is expected of them and the standards they must meet. This should be reinforced by managers going forward during one-to-one meetings and the Appraisal Development Review (ADR) process.
- 1.3 Continuous development is important in ensuring that employees continue to do their jobs to the standard expected of them. Employees should be encouraged to improve/maintain their performance through formal or informal training including on-the-job training where appropriate.
- 1.4 On occasion there may be situations, when the performance of an employee falls below an acceptable level. Under performance may occur at any time during employment, and may, for example, be the result of:
 - a recently recruited employee not performing to the expected standard;
 - promotion of an employee to a post which subsequently proves to be beyond their level of competence;
 - changes in job demands, advancements in technology, new work methods or legislation.
 - a health condition or disability.
 - difficult personal circumstances.
- 1.5 Under performance may manifest itself in different ways including:
 - failure to meet a specific standard, level of performance or work output;
 - failure to meet agreed targets or deadlines;
 - failure to apply specified core competencies;
 - complaint(s) or criticism(s) of the employee's work.
- 1.6 Under performance can be categorised into four broad areas:
 - the employee does not possess the **fundamental skill(s)** to undertake the post effectively;
 - the employee does not have the **ability/aptitude** needed to undertake the job effectively;
 - the employee is **unwilling** to apply themselves to duties/tasks despite possessing the necessary skills/ability;
 - the employee is **negligent/careless** in undertaking their duties.
- 1.7 Where an employee is failing to meet the required standards for one or both of the first two reasons above, the matter will be dealt with as one of **capability**. In these circumstances, the emphasis should be on providing assistance, training, coaching, setting goals and monitoring progress, rather than applying sanctions.
- 1.8 Where it is established that an employee is wilfully failing to properly apply him/herself to their duties, or is negligent in performing their duties, this will be dealt with as a **conduct** matter under the Council's Disciplinary Policy.

2. MEASURING PERFORMANCE

2.1 In assessing an employee's competence, the manager should compare the requirements and demands of the post against the abilities and performance of the employee. The manager should make reference to the following sources of information to ensure that assessment of work performance can be measured as objectively and fairly as possible:

- job description
- person specification - outlining the minimum standards of the post
- work-plans (identifying targets to be met)
- appraisal development review records
- feedback and/or complaints/compliments from customers
- records of any discussions in relation to performance or poor standard of work e.g. frequent mistakes, missed deadlines

2.2 In measuring performance the manager should be careful to:

- measure performance against the requirements of the specific post rather than other fellow employees - one employee should not be compared against another
- avoid any personal prejudices
- ensure the standards expected are reasonable and the minimum required to undertake the job – setting unreasonable standards may make any subsequent dismissal unfair.

3. PRINCIPLES OF MANAGING PERFORMANCE

3.1 In general, the procedure to be followed will take account of the following principles:

- **Concerns relating to unsatisfactory performance should be dealt with informally in the first instance** – informally alerting an employee to their failure in performance may be sufficient in motivating the employee to achieve the necessary improvement or in ensuring that the employee is aware of the standards required.
- **Concerns relating to unsatisfactory performance should be dealt with timeously** – early intervention where under performance is identified will provide the employee with the opportunity to address the matter quickly and limit the impact of the under performance
- **A careful and thorough appraisal of the employee's performance should be carried out** – where the employee's performance reaches the accepted standard, no further action will be taken under these procedures. Any future concerns/omissions in performance will however be similarly managed in line with the council's Capability and Performance Framework.
- **Concerns will be discussed constructively with the employee** – a positive and constructive approach should be taken when dealing with capability issues.
- **The employee should be given the opportunity to achieve the required improvement** – reasonable time and necessary support should be provided that takes account of individual circumstances. Given the wide range of factors that may impact on work performance in any given situation, it is not possible to attach timescales to the individual stages. Instead, reasonable time for improvement should be allowed at each stage of the process in order to ensure fairness to the employee while balancing this with the effect on service delivery.
- **Failure to engage in the performance improvement process may result in disciplinary action** – if the employee is unwilling to engage in the process despite all relevant support being offered, the matter will be addressed under the Council's Disciplinary Procedure.

- **The employee will be advised of the consequences of failure to achieve satisfactory improvement** - if it becomes apparent that referral to a capability hearing and subsequent termination of employment may be a potential outcome, it is essential that the employee is informed that this is a possible consequence. However this should not be conveyed as a threat to an employee and should only be discussed with them if it is a genuine, potential outcome of the capability process.

4. INFORMAL DISCUSSION

- 4.1 The aim at this stage of the procedure is for the line manager to make the employee aware of any instances of underperformance, to discuss how improvements can be made and consider any assistance that could be offered to help achieve those improvements. It should be emphasised to the employee that this is an informal measure at this point.
- 4.2 As the objective at this stage is to try to achieve an informal solution without the need to resort to more formal measures, the discussion will be on a 'one to one' basis in order to maintain the informality of discussions. In common with the approach taken during informal counselling meetings under other council policies, the right to be accompanied will not apply at this early stage.
- 4.3 During the informal meeting, the discussion will typically involve the following;
- the employee should be made aware of the shortfall in their performance using examples of poor workmanship, mistakes, complaints etc. where possible.
 - there should be a two-way discussion to try and identify any underlying causes for the under performance. Consideration should be given to all circumstances potentially affecting performance i.e. difficult personal circumstances; changes in management or supervision; health issues; changes in working procedures or technology;
 - the manager should offer/agree any suitable training to assist the employee in improving his/her skills and abilities;
 - identify any health issues which may be contributing to under performance and arrange referral to Occupational Health if appropriate.
 - the emphasis should be on finding ways for the employee to improve and to agree reasonable measurable targets for performance improvement with the employee;
 - a suitable period should be agreed in which to review the performance. The timescales agreed should allow adequate time for improvement, taking into account the nature of the concerns raised and the support mechanisms which have been agreed;
 - the employee should be made aware that failure to demonstrate an improvement in their performance within this period is likely to result in the situation being dealt with on a formal basis in accordance with the Supporting Performance Framework.
- 4.4 The discussion and action agreed at the meeting along with targets for improvement will be recorded on the Performance Review Record and Action Plan (Appendix 1) and updated as necessary at review meetings.

5. INFORMAL REVIEW

- 5.1 A review meeting should be held to determine whether the required standards have been met. Depending on the circumstances, it may be appropriate to hold more than one such meeting at appropriate intervals.
- 5.2 If the employee's performance has improved to satisfactory levels, progress will continue to be monitored through regular one-to-one meetings and the ADR process.
- 5.3 If there is insufficient or no improvement, the employee should be informed that it is necessary to move to the formal process and of their right to be accompanied at formal stages of the process.

6. FORMAL PERFORMANCE MANAGEMENT - STAGE 1

- 6.1 Where informal measures have proved unsuccessful and the performance of the employee continues to cause concern, a formal meeting should be arranged between the line manager and the employee. The employee will have the right to be accompanied at formal meetings by a trade union representative or some other person of their choice.
- 6.2 The manager should advise the employee of the meeting in writing, giving 5 working days' notice (Template Letter 1).
- 6.3 At the meeting the manager should:
- confirm previous informal discussions relating to under performance and how/why requirements for improvements discussed at this stage have not been met, making reference to the Performance Review Record and Action Plan completed previously;
 - raise concerns regarding under performance and, in particular, discuss any shortfalls in skills and/or abilities. Where possible, examples of poor workmanship, mistakes, complaints etc. should be produced. The manager should refer to clearly defined standards expected and provide specific examples of how performance has fallen below those standards. Reference to any relevant professional standards should also be made in this regard;
 - discuss any underlying causes contributing to under performance and how they might have changed. Consideration should be given to all circumstances potentially affecting performance i.e. difficult personal circumstances; changes in management or supervision; health issues; changes in working procedures or technology;
 - discuss the impact of the underperformance for example safety issues, legislative compliance, complaints and impact on colleagues and/or service delivery.
 - agree reasonable and measurable targets for performance improvement with the employee;
 - offer/agree any suitable training/coaching to assist the employee in improving his/her skills and abilities;
 - advise the employee that continued under performance may result in further action at Stage 2 of the capability and performance framework;
 - agree the duration of the performance review period with interim review meetings as appropriate.
- 6.4 The discussion and action agreed at the meeting along with targets for improvement will be recorded on the Performance Review Record and Action Plan and updated as necessary at review meetings.

7. REVIEW MEETING(S) – STAGE 1

- 7.1 The purpose of a review meeting is to discuss progress made in meeting the set targets. The number and frequency of review meetings will depend on the circumstances, the tasks or standards to be met and the type and level of support required.
- 7.2 The review meeting(s) provide the opportunity to ensure that appropriate consideration has been given to any mitigating circumstances affecting performance. It also ensures that adequate opportunity is given for improvement.
- 7.3 The review meeting(s) should follow a similar format to the Stage 1 meeting.
- 7.4 A final review meeting will be arranged at the end of the review period to assess performance improvement and consider the outcome of the Stage 1 process.

8. OUTCOME OF STAGE 1

Satisfactory Improvement in Performance

- 8.1 Where performance has improved to acceptable levels and no further action is considered

necessary, the manager will advise the employee within 5 working days of the meeting (Template Letter 2). The employee will be expected to maintain their performance at a satisfactory level and the line manager will continue to monitor progress through regular one-to-one meetings and the ADR process.

Limited Improvement in Performance

- 8.2 Where there has been limited improvement but acceptable levels/standards are still not being consistently met, the reasons for the underperformance should be explored. In these circumstances, it may be appropriate to extend the review period and agree:
- further measurable targets for performance improvement; and
 - the nature of any further support required to assist the employee in improving their performance to the required level.
- 8.3 The action agreed at the meeting will be confirmed in writing to the employee within 5 working days (Template Letter 2). The Performance Review Record and Action Plan will also be updated with targets for improvement and the agreed review period.
- 8.4 There may be occasions where the manager considers that although there has been some improvement, it is has not been sufficient enough to preclude moving to Stage 2 of the procedure. The decision will be confirmed in writing to the employee within 5 working days of the meeting (see Template Letter 2).

Failure to Improve Performance

- 8.5 If there has been no improvement in performance, the employee will proceed to Stage 2 of the procedure. The decision will be confirmed to the employee in writing within 5 working days of the meeting together with the potential implications of continued under performance (Template Letter 2).

9. FORMAL PERFORMANCE MANAGEMENT – STAGE 2

- 9.1 Where formal performance management at Stage 1 has proved unsuccessful and the performance of the employee continues to cause concern, a formal Stage 2 meeting should be arranged. The stage 2 meeting will be conducted by a manager more senior to the manager who conducted the stage 1 meeting.
- 9.2 The employee should be advised in writing and given 5 working days' notice of the Stage 2 meeting (Template Letter 3).
- 9.3 The Stage 2 meeting(s) should follow a similar format to the Stage 1 meeting providing the employee with further examples of poor performance and how performance continues to fall below expected standards and the targets set at earlier stages.
- 9.4 Consideration should be given to the further support that can be provided to assist the employee improve their performance or remove any barriers that may be contributing to the underperformance.
- 9.5 If appropriate, modified targets for performance improvement should be agreed with the employee setting out the duration of the performance review period and timescales for interim review meetings as appropriate.
- 9.6 The discussion and action agreed at the meeting along with targets for improvement will be recorded on the Performance Review Record and Action Plan and updated as necessary at review meetings.

10. REVIEW MEETING(S) – STAGE 2

- 10.1 The review meeting(s) should follow a similar format to the Stage 1 review meeting(s).

- 10.2 A final review meeting will be arranged at the end of the review period to assess performance improvement and consider the outcome of the Stage 2 process.

11. OUTCOME OF STAGE 2

Satisfactory Improvement in Performance

- 11.1 Where performance has improved to acceptable levels and no further action is considered necessary, this will be confirmed in writing to the employee within 5 working days of the meeting (Template Letter 4). The employee will be expected to maintain their performance at a satisfactory level and the line manager will continue to monitor progress during one-to-one meetings and the ADR process.

Limited Improvement in Performance

- 11.2 Where there is some improvement but acceptable levels/standards are not being consistently met, it may be appropriate to extend the review period. At this stage, the manager should explore the reasons why sufficient improvement has not been made and agree:

- further measurable targets for performance improvement; and
- the nature of any further support required to assist the employee in improving their performance to the required level.

- 11.3 The action agreed at the meeting will be confirmed in writing to the employee within 5 working days of the meeting (Template Letter 4). The Performance Review Record and Action Plan will be updated with targets for improvement and the agreed review period.

- 11.4 There may be occasions where the manager considers that although there has been some improvement, it is has not been sufficient enough to preclude moving to Stage 3 of the procedure. The decision will be confirmed in writing to the employee within 5 working days of the meeting (see Template Letter 4).

Failure to Improve Performance

- 11.5 If there has been no improvement in performance, the employee will proceed to Stage 3 of the procedure. The decision will be confirmed in writing to the employee within 5 working days of the meeting together with the potential implications of continued under performance (Template Letter 4).

12. RECURRING UNDER-PERFORMANCE FOLLOWING INITIAL IMPROVEMENT

- 12.1 Where an employee achieves the standards required as a result of performance improvement measures, they will return to normal monitoring. If however performance subsequently falls below the agreed standards, the line manager will consider whether to:

- initiate the procedure again at the informal stage;
- re-start the procedure at the stage that was previously reached; or
- re-start the procedure at an escalated stage.

- 12.2 The line manager will consider the extent of the underperformance and the length of time over which the performance improvement had been sustained. For example, if a significant dip in performance recurs after only a matter of weeks, this may result in the formal process being resumed at an escalated stage of the procedure. A minor relapse after a number of months may merit only a return to the informal stage of the process.

13. CAPABILITY & PERFORMANCE ASSESSMENT – STAGE 3

- 13.1 Where the supporting performance interventions at Stage 2 have proved unsuccessful and the performance of the employee continues to cause concern, a Capability and Performance Assessment - Stage 3 meeting should be arranged.
- 13.2 The Capability and Performance Assessment meeting will be chaired by the relevant Head of Service, Depute Chief Executive/Chief Executive as appropriate who will be supported by a Senior Human Resources Adviser.
- 13.3 The manager who has managed the employee through the Supporting Performance process will attend the meeting and will submit a capability report (Performance Review Record and Action Plan – Appendix 1) in advance of the meeting outlining the circumstances for consideration. Where appropriate, an up to date Occupational Health Adviser's report should be obtained for consideration at the Capability Assessment meeting.
- 13.4 The employee will be given at least 5 working days' written notice of the meeting (Template Letter 5) including their right to be accompanied and a copy of the Capability & Performance report. The employee will already have automatically received a copy of the Occupational Health Adviser's report directly from the OH Adviser where appropriate.
- 13.5 At the meeting, the Capability & Performance report and Occupational Health Adviser's report will be discussed with the employee and any representations from the employee or their representative will also be taken into account.
- 13.6 After consideration of all information presented at the meeting, the Head of Service/Depute Chief Executive/Chief Executive will determine which of the following options is appropriate in the circumstances:

Redeployment

- 13.7 Consideration will be given as to whether a search for suitable alternative employment should be undertaken. Where this is considered appropriate, the Capability and Performance Assessment meeting will be adjourned to allow a search for suitable alternative employment to be undertaken in accordance with the procedure outlined in Section 15 below.
- 13.8 Where suitable alternative employment cannot be identified, the Capability and Performance Assessment meeting will be reconvened.

Further Review

- 13.9 Where it is determined that the facts presented do not warrant dismissal on the grounds of capability, the Head of Service/Depute Chief Executive/Chief Executive may adjourn the Capability Assessment meeting in order to:
- give the employee an additional opportunity to improve their performance in order to meet further reasonable agreed targets within defined timescales; or
 - allow for additional information/clarification to be obtained in respect of points raised at the hearing; or
 - trial and assess the outcome of reasonable adjustments requested and agreed at the hearing.
- 13.10 Following reasonable time to allow for further review as agreed, the Capability Assessment meeting will be reconvened.

Dismissal

- 13.11 Where, having considered all the available information, the Head of Service/Depute Chief Executive/Chief Executive concludes that all other options are either inappropriate or have been

fully exhausted the employee will be advised that they are to be dismissed on the grounds of capability.

- 13.12 An employee may make an appeal in writing against their dismissal on the grounds of capability to the Head of Corporate Service within 10 working days of the effective date of dismissal indicating the grounds of the appeal.
- 13.13 The Head of Corporate Services will arrange for the appeal to be considered by the Council's Appeals Committee within 20 working days of receipt of the letter of appeal or as soon as possible thereafter. The appeal will be heard in accordance with the procedure set out in Appendix 3 of the council's Disciplinary Procedure.
- 13.14 The outcome of the Stage 3 Capability and Performance Assessment Meeting will be confirmed in writing to the employee within 10 working days (Template Letters 6, 7 & 8).

14. OCCUPATIONAL HEALTH REFERRAL

- 14.1 Where an employee attributes under performance to a health condition, it may be appropriate to refer the employee for assessment by the council's Occupational Health Adviser. Referral can be carried out at any stage of the capability and performance process and should be recorded as an action on the Performance Review Record and Action Plan.
- 14.2 The Occupational Health Adviser can provide information on whether an underlying health condition exists, an employee's fitness to carry out their duties, and any reasonable adjustments that might assist the employee to achieve and maintain the required standards of performance.
- 14.3 Where an employee is referred to a Capability and Performance Assessment Stage 3 meeting and the employee's health has previously been a factor discussed in the course of meetings convened under the Supporting Performance Framework (irrespective of whether or not an Occupational Health report has been obtained at an earlier stage), an up to date Occupational Health report should be obtained prior to the Stage 3 meeting.

15. REDEPLOYMENT

- 15.1 Redeployment may be raised as a possible option by the employee, the manager or Occupational Health at any stage of the formal process. Redeployment may be a suitable option where there is evidence to indicate that there is little prospect of the employee being able to meet and maintain the expected standards of performance within a reasonable timescale. Redeployment will not be an option where an employee is unwilling to engage in the performance improvement process or their underperformance is as a result of negligence/carelessness or failure to apply themselves to the task, despite possessing the necessary skills/ability.
- 15.2 The ability to redeploy an employee will depend on the availability of suitable vacancies at that time within or out with the employing service. The search for alternative employment in these circumstances will normally be undertaken for no longer than 3 months after which the employee may be dismissed on the grounds of capability.
- 15.3 Where a potentially suitable vacancy exists, the employee will be offered a priority interview and in a similar manner to the council's Workforce Management Policy & Procedure, he/she will only be in competition with other employees on the Redeployment List.
- 15.4 Where an employee is successful at priority interview, the employee shall be offered the post on the basis of the terms and conditions that apply to that particular post. No protection of the employee's existing contractual terms will apply. Offers of alternative employment will normally include provision for a trial period in a similar manner to employees offered suitable alternative employment under the terms of the council's Workforce Management Policy & Procedure.
- 15.5 If an employee refuses to accept an offer of alternative employment that is considered to be reasonable in all the circumstances, the reasons for the refusal will be discussed with the employee

and his/her representative if applicable. Where the employing service is satisfied that the offer is reasonable but the employee still refuses to accept it, the employee will be dismissed.

16. DISCIPLINARY PROCEDURE

- 16.1 The council's Disciplinary Procedure may be invoked at any stage during the formal Capability and Performance Process where there is evidence to show that the employee has failed to properly engage and cooperate with the supporting performance process despite all relevant support being offered. The decision to resort to the Disciplinary Procedure in any given case will be subject to consultation with Human Resources in line with Section 18 below of this framework.
- 16.2 Where the Disciplinary Procedure is used in the above circumstances, the information recorded as part of the Supporting Performance Process will form the basis of the disciplinary investigation.
- 16.3 In determining the appropriate level of disciplinary action to be taken, the Nominated Officer will take into account the stage that was reached in the Supporting Performance process and any support that was provided to assist the employee to improve their performance.
- 16.4 Where action short of dismissal is taken, the employee's performance will continue to be monitored under the Supporting Performance Framework. Performance improvement targets and a review period will therefore be set under the appropriate stage of the Framework.

17. RECORD KEEPING

- 17.1 Following the conclusion of the Supporting Performance Process, the completed Performance Review Record and Action Plan will be retained in the employee's personal file for a period of 12 months.
- 17.2 The Review Record and Action Plan will be taken account of where performance subsequently falls below the agreed standards set as outlined in section 12 above.

18. RESPONSIBILITIES

Line Manager

- 18.1 Line Managers are expected to:
- ensure that performance standards expected of employees are reasonable
 - ensure that employees are aware of and understand the standards expected of them
 - make employees aware of underperformance at the earliest opportunity
 - provide employees with adequate opportunity, training, assistance and resources to improve their performance
 - agree reasonable performance improvement targets and review periods, while balancing employee support with service delivery
 - advise employees of the consequences of failure to achieve and maintain the expected standards of performance
 - fairly and consistently apply the capability and performance framework within their team
 - maintain confidentiality while applying the capability and performance framework

Employee

- 18.2 Employees are expected to:
- keep up to date with the skills and knowledge required to undertake the duties of their post
 - meet any requirements of relevant professional or regulatory bodies, maintaining records as appropriate
 - discuss with their line manager any concerns they have about their own knowledge/skills/ability to undertake the duties of their post effectively

- discuss with their line manager any external factors that may contribute to any failure to achieve the expected standards of performance
- engage in the performance improvement process and proactively complete any recommended actions to help them achieve and maintain the expected standards of performance

Human Resources

18.3 Human Resources will:

- monitor the general application of the supporting performance framework to ensure consistency across services
- provide advice and support to managers in managing individual cases of employee under performance
- liaise with the council's Occupational Health Adviser and advise managers on the preparation of medical referral documentation
- attend Capability and Performance Assessment Stage 3 meetings
- coordinate the council wide search for alternative employment
- advise on the use of the council's disciplinary procedure as appropriate where the supporting performance process has not been successful in remedying the underperformance
- provide advice on equality and discrimination issues as appropriate

Head of Service/Depute Chief Executive/Chief Executive

18.4 The Head of Service/Depute Chief Executive/Chief Executive will:

- chair Capability and Performance Assessment Stage 3 meetings
- determine the outcome of Capability and Performance Assessment Stage 3 meetings
- arrange for the council's Appeals Committee to hear appeals against capability dismissals as appropriate.

19. REVIEW

- 19.1 This procedure will be reviewed in consultation with the recognised trade unions as appropriate at least once every 5 years.

SUPPORTING PERFORMANCE FRAMEWORK

PERFORMANCE REVIEW RECORD AND ACTION PLAN – INFORMAL STAGE

Employee Name:		Post Title:	
Line Manager:		Service:	
Start Date with Council:		Start Date in Current Post:	

INFORMAL STAGE – INITIAL MEETING		
Date of Meeting:		
Manager Conducting Meeting:		
PERFORMANCE ISSUES RAISED WITH EMPLOYEE	EVIDENCE PRESENTED TO EMPLOYEE	EMPLOYEE RESPONSE TO PERFORMANCE ISSUES

INFORMAL STAGE - ACTION PLAN

SUPPORT/TRAINING TO BE PROVIDED	TARGET COMPLETION DATE	ACTUAL COMPLETION DATE

ACTIONS/TARGETS TO BE ACHIEVED	TARGET COMPLETION DATE	ACTUAL COMPLETION DATE

INFORMAL STAGE REVIEW ARRANGEMENTS PLAN

Review Period:	
Dates of Interim Review Meetings:	
Date of Final Review Meeting:	

INFORMAL REVIEW MEETING

Date of Meeting:

Manager Conducting Meeting:

[illegible]

FINAL INFORMAL REVIEW MEETING	
Date of Meeting:	
Manager Conducting Meeting:	

ACTIONS/TARGETS	OUTCOME	EVIDENCE TO SUPPORT OUTCOME
	Target Achieved <input type="checkbox"/> Target Missed <input type="checkbox"/>	
	Target Achieved <input type="checkbox"/> Target Missed <input type="checkbox"/>	
	Target Achieved <input type="checkbox"/> Target Missed <input type="checkbox"/>	
	Target Achieved <input type="checkbox"/> Target Missed <input type="checkbox"/>	

ACTION TO BE TAKEN FOLLOWING FINAL REVIEW MEETING	REASONS FOR DECISION
Performance Improved to Satisfactory Level <input type="checkbox"/> Return to Normal Monitoring	
Little or No Improvement <input type="checkbox"/> Move to Stage 1 of the Formal Process	

SUPPORTING PERFORMANCE FRAMEWORK

PERFORMANCE REVIEW RECORD AND ACTION PLAN - STAGE 1 OR 2

Employee Name:		Post Title:	
Line Manager:		Service:	
Start Date with Council:		Start Date in Current Post:	

STAGE 1/2 – INITIAL MEETING		
Stage and Date of Meeting:		
Manager Conducting Meeting:		
Others in Attendance (Employee Representative):		
PERFORMANCE ISSUES RAISED WITH EMPLOYEE	EVIDENCE PRESENTED TO EMPLOYEE	EMPLOYEE RESPONSE TO PERFORMANCE ISSUES

STAGE 1 OR 2 - ACTION PLAN

SUPPORT/TRAINING TO BE PROVIDED	TARGET COMPLETION DATE	ACTUAL COMPLETION DATE

ACTIONS/TARGETS TO BE ACHIEVED	TARGET COMPLETION DATE	ACTUAL COMPLETION DATE

STAGE 1 or 2 REVIEW ARRANGEMENTS PLAN

Review Period:	
Dates of Interim Review Meetings:	
Date of Final Review Meeting:	

STAGE 1 or 2 REVIEW MEETING

Stage and Date of Meeting:	
Manager Conducting Meeting:	

[illegible]

STAGE 1 OR 2 FINAL REVIEW MEETING

Stage and Date of Meeting:

Manager Conducting Meeting:

ACTIONS/TARGETS**OUTCOME****EVIDENCE TO SUPPORT OUTCOME**

Target Achieved

☐

Target Missed

☐

Target Achieved

☐

Target Missed

☐

Target Achieved

☐

Target Missed

☐

Target Achieved

☐

Target Missed

☐**ACTION TO BE TAKEN FOLLOWING FINAL REVIEW MEETING****REASONS FOR DECISION****Performance Improved to Satisfactory Level**

Return to Normal Monitoring

☐**Some improvement**

Extend Review Period

☐**Little or No Improvement**

Move to Capability Assessment

☐**Invoke Disciplinary Process**☐**Refer to Redeployment List**☐**The Record and Action Plan Form should be signed by the Line Manager and Employee.**

Line Manager: _____

Date: _____

Employee: _____

Date: _____

SUPPORTING PERFORMANCE FRAMEWORK

PERFORMANCE REVIEW RECORD AND ACTION PLAN - STAGE 3

STAGE 3 - CAPABILITY ASSESSMENT	
Date of Meeting:	
Manager Conducting Meeting:	
Others in Attendance:	
CAPABILITY REPORT <i>(To be completed by the line manager prior to the capability assessment meeting)</i>	
<p>Provide a summary of the reasons for referral to a Capability Assessment Meeting, the actions taken at earlier stages of the process, the support provided to the employee and evidence of continued failure to achieve satisfactory levels of performance. Include details of any Occupational Health referral where appropriate.</p>	

OUTCOME OF CAPABILITY ASSESSMENT MEETING

Record the decision taken by the officer hearing the Capability Meeting along with the reasons for that decision. Any mitigation offered by the employee should also be recorded here.

ACTION TO BE TAKEN FOLLOWING CAPABILITY ASSESSMENT MEETING

- Referral to the redeployment list
- Further Review
- Dismissal on the Grounds of Capability

☐☐☐

The Record and Action Plan Form should be signed by the Line Manager and Employee.

Line Manager: _____ Date: _____

Employee: _____ Date: _____

SUPPORTING PERFORMANCE FRAMEWORK
STANDARD TEMPLATE LETTERS

Standard Template 1

Instruction to attend a Stage 1 Supporting Performance Meeting

Ref: [insert employee number]

Date [insert date]

Strictly Private & Confidential:
To be opened by Addressee only
[insert name & address]

Dear [insert name]

STAGE 1 SUPPORTING PERFORMANCE MEETING
JOB TITLE: [insert job title for post to which the performance issue relates to]

I refer to our recent discussions in relation to capability and performance. Your performance levels continue to be a matter of concern and you are required to attend a Stage 1 Performance Review Meeting on [insert date, time, and location] in line with the Supporting Performance Framework.

The purpose of the meeting is to:

- discuss your levels of performance and how they fall below the standard expected;
- explore the reasons for your under performance and what support can be put in place to assist you to achieve the required standard; and
- prepare an action plan outlining performance improvement targets and agree performance review arrangements

You have the right to be accompanied at the meeting by a trade union representative or some other person of your choice. It is important that you are aware that this is not a disciplinary hearing.

If you are unable to attend this meeting or if you have any queries regarding this matter please contact me as soon as possible on [insert contact details]

Yours sincerely

SUPPORTING PERFORMANCE FRAMEWORK

STANDARD TEMPLATE LETTERS

Standard Template 2

Outcome of Stage 1 Final Review Meeting

Ref: [insert employee number]

Date [insert date]

Strictly Private & Confidential:
To be opened by Addressee only
[insert name & address]

Dear [insert name]

OUTCOME OF STAGE 1 SUPPORTING PERFORMANCE REVIEW

JOB TITLE: [insert job title for post to which the performance issue relates to]

I refer to the Stage 1 Performance Review meeting held on and the subsequent review period as detailed in your Performance Review Record and Action Plan.

Following the final review meeting held on I have concluded that:

- your performance has improved to acceptable levels and no further action is considered necessary. You are expected to maintain your performance at a satisfactory level and your performance will continue to be reviewed at one to one meetings and through the ADR process.
- there has been some improvement in your performance but acceptable levels/standards are not being met. It has therefore been agreed to extend your review period for a further Targets for performance improvement along with future review arrangements are detailed in your Performance Review Record and Action Plan.
- there has been some improvement in your performance but acceptable levels/standards are not being met. You have therefore been referred to Stage 2 of the Supporting Performance Framework. Targets for performance improvement under Stage 2 along with future review arrangements are detailed in your Performance Review Record and Action Plan.
- there has been no improvement in performance. You will now therefore progress to Stage 2 of the Supporting Performance Framework. Targets for performance improvement under Stage 2 along with future review arrangements are detailed in your Performance Review Record and Action Plan.
- your under performance is as a result of your unwillingness to undertake duties, even though you possess the necessary skills/ability; OR your negligence in undertaking duties. You have therefore been referred to the Disciplinary Procedure and will receive notice of a disciplinary hearing.
- you have failed to engage in the performance improvement process and/or have

provided no underlying reasons as to why your performance has not improved. You have therefore been referred to the Disciplinary Procedure and will receive notice of a disciplinary hearing.

- you are unlikely to achieve acceptable levels/standards of performance in your current post and, with your agreement, you will be referred to the council's redeployment list. A search for suitable alternative employment will be undertaken in accordance with Section 13 of the Supporting Performance Framework.

Yours sincerely

SUPPORTING PERFORMANCE FRAMEWORK
STANDARD TEMPLATE LETTERS

Standard Template 3

Instruction to attend a Stage 2 Supporting Performance Meeting

Ref: [insert employee number]

Date [insert date]

Strictly Private & Confidential:
To be opened by Addressee only
[insert name & address]

Dear [insert name]

STAGE 2 SUPPORTING PERFORMANCE MEETING
JOB TITLE: [insert job title for post to which the performance issue relates to]

Following the outcome of your Stage 1 Performance Review meeting, your performance levels continue to be a matter of concern and you are required to attend a Stage 2 Performance Review Meeting on [insert date, time, and location] in line with the Supporting Performance Framework.

The purpose of the meeting is to:

- discuss your levels of performance and how they continue to fall below the standard expected;
- explore the reasons for your continued under performance and what further support can be put in place to assist you to achieve the required standard; and
- prepare an action plan outlining performance improvement targets and agree performance review arrangements

You have the right to be accompanied at the meeting by a trade union representative or some other person of your choice. It is important that you are aware that this is not a disciplinary hearing.

If you are unable to attend this meeting or if you have any queries regarding this matter please contact me as soon as possible on [insert contact details]

Yours sincerely

SUPPORTING PERFORMANCE FRAMEWORK

STANDARD TEMPLATE LETTERS

Standard Template 4

Outcome of Stage 2 Final Review Meeting

Ref: [insert employee number]

Date [insert date]

Strictly Private & Confidential:
To be opened by Addressee only
[insert name & address]

Dear [insert name]

OUTCOME OF STAGE 2 SUPPORTING PERFORMANCE REVIEW **JOB TITLE: [insert job title for post to which the performance issue relates to]**

I refer to the Stage 2 Performance Review meeting held on and the subsequent review period as detailed in your Performance Review Record and Action Plan.

Following the final review meeting held on I have concluded that:

- your performance has improved to acceptable levels and no further action is considered necessary. You are expected to maintain your performance at a satisfactory level and your performance will continue to be reviewed at one to one meetings and through the ADR process.
- there has been some improvement in your performance but acceptable levels/standards are not being met. It has therefore been agreed to extend your review period for a further Targets for performance improvement along with future review arrangements are detailed in your Performance Review Record and Action Plan.
- there has been some improvement in your performance but acceptable levels/standards are not being met. You have therefore been referred to Stage 3 of the Supporting Performance Framework and will receive notice of a Capability Assessment meeting.
- there has been no improvement in performance. You have therefore been referred to Stage 3 of the Supporting Performance Framework and will receive notice of a Capability Assessment meeting.
- your under performance is as a result of your unwillingness to undertake duties, even though you possess the necessary skills/ability; OR your negligence in undertaking duties. You have therefore been referred to the Disciplinary Procedure and will receive notice of a disciplinary hearing.
- you have failed to engage in the performance improvement process and/or have provided no underlying reasons as to why your performance has not improved. You have therefore been referred to the Disciplinary Procedure and will receive notice of

a disciplinary hearing.

- you are unlikely to achieve acceptable levels/standards of performance in your current post and, with your agreement, you will be referred to the council's redeployment list. A search for suitable alternative employment will be undertaken in accordance with Section 13 of the Supporting Performance Framework.

SUPPORTING PERFORMANCE FRAMEWORK

STANDARD TEMPLATE LETTERS

Standard Template 5

Instruction to attend a Stage 3 Capability Assessment Meeting

Ref: [insert employee number]

Date [insert date]

Strictly Private & Confidential:
To be opened by Addressee only
[insert name & address]

Dear [insert name]

STAGE 3 CAPABILITY ASSESSMENT MEETING

JOB TITLE: [insert job title for post to which the performance issue relates to]

Following the outcome of your Stage 2 Performance Review meeting, your performance levels continue to be a matter of concern and you are required to attend a Stage 3 Capability Assessment Meeting on [insert date, time, and location] in line with the Supporting Performance Framework.

The purpose of the meeting is to:

- discuss your levels of performance and how they have continued to fall below the standard expected;
- review the reasons for your continued under performance and the support that has been put in place to assist you to achieve the required standard or to explore other options;
- discuss [if appropriate] the content of the medical report received following your appointment with the council's Occupational Health Adviser;
- consider the continuation of your employment with the council and any evidence you wish to present which is relevant to the consideration of this; and
- consider any further interventions the service may be able to offer to assist you in improving your performance and sustaining your continued employment with the council, subject to the ability of the service to accommodate such interventions.

At this meeting in-depth discussions will be held about all available options; however, it is very important that you are aware that one of the potential outcomes of those deliberations could result in the termination of your employment with the Council, even though this meeting is not a disciplinary hearing.

You have the right to be accompanied at the meeting by a trade union representative or some other person of your choice.

If you are unable to attend this meeting or if you have any queries regarding this matter please contact me as soon as possible on [insert contact details]

Yours sincerely

SUPPORTING PERFORMANCE FRAMEWORK
STANDARD TEMPLATE LETTERS

Standard Template 6

Outcome of Stage 3 Capability Assessment Meeting - Redeployment

Ref: [insert employee number]

Date [insert date]

Strictly Private & Confidential:
To be opened by Addressee only
[insert name & address]

Dear [insert name]

STAGE 3 CAPABILITY ASSESSMENT MEETING
JOB TITLE: [insert job title for post to which the performance issue relates to]

I refer to the Capability Assessment Meeting you attended on [insert date]. You were accompanied at the meeting by [insert name]/you confirmed that you were happy not to be accompanied at this meeting *(delete as appropriate)*

The meeting was arranged to discuss:

- your levels of performance and how they have continued to fall below the standard expected;
- the reasons for your continued under performance and the support that has been put in place to assist you to achieve the required standard or to explore other options;
- [if appropriate] the content of the medical report received following your appointment with the council's Occupational Health Adviser;
- the continuation of your employment with the council and any evidence you wish to present which is relevant to the consideration of this; and
- any further interventions the service may be able to offer to assist you in improving your performance and sustaining your continued employment with the council, subject to the ability of the service to accommodate such interventions.

At the meeting, we discussed [insert summary of discussion]

[if appropriate] We also discussed the report received from Occupational Health [insert summary of discussion around the report]

Following our discussions, I have concluded that you are unlikely to achieve acceptable levels/standards of performance in your current post and, with your agreement, you will be referred to the council's redeployment list.

I will now arrange for a search to be conducted for alternative employment for you. You should be aware however that this would depend on the availability of suitable vacancies within or out-with your current service. The redeployment team will contact you and arrange for a skills audit to be completed in order to aid their search. It is in your own best interests to complete this form and send it back to the redeployment team as soon as possible.

All posts for the Council are advertised on myjobscotland website <https://www.myjobscotland.gov.uk/councils/west-lothian-council/jobs> where you can register for email alerts to any new posts. Should you discover any post being advertised that you think would be suitable I would ask you to contact the redeployment team who can arrange a review of the essential qualifications against your skills set.

If following 3 months, the search for alternative employment has been unsuccessful I will arrange to meet with you again. At this meeting, you should be aware that all options surrounding your employment will be discussed and one of the potential outcomes could result in the terminating your employment on the grounds of capability.

Yours sincerely

SUPPORTING PERFORMANCE FRAMEWORK

STANDARD TEMPLATE LETTERS

Standard Template 7

Outcome of Stage 3 Capability Assessment Meeting – Further Review

Ref: [insert employee number]

Date [insert date]

Strictly Private & Confidential:
To be opened by Addressee only
[insert name & address]

Dear [insert name]

STAGE 3 CAPABILITY ASSESSMENT MEETING **JOB TITLE: [insert job title for post to which the performance issue relates to]**

I refer to the Capability Assessment Meeting you attended on [insert date]. You were accompanied at the meeting by [insert name]/you confirmed that you were happy not to be accompanied at this meeting *(delete as appropriate)*

The meeting was arranged to discuss:

- your levels of performance and how they have continued to fall below the standard expected;
- the reasons for your continued under performance and the support that has been put in place to assist you to achieve the required standard or to explore other options;
- [if appropriate] the content of the medical report received following your appointment with the council's Occupational Health Adviser;
- the continuation of your employment with the council and any evidence you wish to present which is relevant to the consideration of this; and
- any further interventions the service may be able to offer to assist you in improving your performance and sustaining your continued employment with the council, subject to the ability of the service to accommodate such interventions.

At the meeting, we discussed [insert summary of discussion]

[if appropriate] We also discussed the report received from Occupational Health [insert summary of discussion around the report]

Following our discussions, I have concluded that your period of performance review should be extended by This further review period is intended to and you are expected to

I will arrange to meet with you again at the end of the review period. At this meeting, you should be aware that all options surrounding your employment will be discussed and one of the potential outcomes could result in the termination of your employment on the grounds of capability.

Yours sincerely

SUPPORTING PERFORMANCE FRAMEWORK

STANDARD TEMPLATE LETTERS

Standard Template 8

Outcome of Stage 3 Capability Assessment Meeting – Further Review

Ref: [insert employee number]

Date [insert date]

Strictly Private & Confidential:
To be opened by Addressee only
[insert name & address]

Dear [insert name]

STAGE 3 CAPABILITY ASSESSMENT MEETING

JOB TITLE: [insert job title for post to which the performance issue relates to]

I refer to the Capability Assessment Meeting you attended on [insert date]. You were accompanied at the meeting by [insert name]/you confirmed that you were happy not to be accompanied at this meeting (*delete as appropriate*)

The meeting was arranged to discuss:

- your levels of performance and how they have continued to fall below the standard expected;
- the reasons for your continued under performance and the support that has been put in place to assist you to achieve the required standard or to explore other options;
- [if appropriate] the content of the medical report received following your appointment with the council's Occupational Health Adviser;
- the continuation of your employment with the council and any evidence you wish to present which is relevant to the consideration of this; and
- any further interventions the service may be able to offer to assist you in improving your performance and sustaining your continued employment with the council, subject to the ability of the service to accommodate such interventions.

At the meeting, we discussed [insert summary of discussion]

[if appropriate] We also discussed the report received from Occupational Health [insert summary of discussion around the report]

Following our discussions, I have concluded that there has not been an acceptable improvement in your performance and despite the support that has been put in place, you have continued to fall below the required standards of your post.

Therefore I confirm that your employment with the Council has been terminated on the grounds of capability effective from [insert date of meeting]

You will receive [insert weeks] pay in lieu of notice and will receive payment for any outstanding annual leave.

As discussed you have the right to appeal against your dismissal to the Council's Appeals Committee. Should you wish to exercise this right you should submit your appeal in writing to the Head of Corporate Services, West Lothian Civic Centre, Howden South Road, Livingston, West Lothian, EH54 6FF within 10 working days of this letter.

Yours sincerely