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## SI1117

# Police Officer Unsatisfactory Performance

Unsatisfactory Performance is an inability or failure to perform the duties of the rank or role currently being undertaken, to a satisfactory standard or level.



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## 1. Introduction

This service instruction sets out the formal procedure for managing individual performance, where informal supportive action within the Individual Performance review (IPR), has failed to result in performance at the required standard; and applies to all police officers who have completed their probationary period up to and including Chief Superintendent rank.

The underlying principles of the process are:

- Identifying, challenging and managing unsatisfactory performance fairly effectively and promptly, which is critical in enabling us to deliver our vision: To help build a Safe, Confident and Peaceful Society.
- Requirement for line managers to understand that failure to challenge and address unsatisfactory performance, results in inefficiency and poor engagement levels throughout the rest of Police Service of Northern Ireland (PSNI).
- Line managers to address unsatisfactory performance, in the first instance, **informally** within the IPR using a Performance Support Plan, unless it is a serious case of gross incompetence, in which case the Unsatisfactory Performance Process can be used immediately.

Unsatisfactory Performance is an inability or failure to perform the duties of the rank or role currently being undertaken, to a satisfactory standard or level.

For the purpose of this process a jobholder's capability is assessed by reference to their skills, qualifications, learning accreditation, occupational standards and Personal Behaviours as detailed within the jobholder's role profile. The role profile sets out the standards and behaviours that are expected, to demonstrate a satisfactory standard of performance.

When dealing with performance issues, line managers need to make clear the distinction between a situation that may be outside the jobholder's control, such as a lack of training, health issues or impact of personal circumstances and a situation which may be a matter of conduct, rather than performance.

Where it has been confirmed that health issues or personal circumstances are having a detrimental impact upon performance, the line manager should ascertain if supportive action such as OHW referral, temporary change of duties or approval for time off would assist in resolving the issue. Where it is **appropriate and possible** to do so, the jobholder should in the short term be supported to work through any external issues that may be impacting upon performance. However this does not mean

the needs of the individual should be placed above the requirement of the organisation.

The following situations are examples of issues that would normally be dealt with by the unsatisfactory performance process:

- Failure to meet performance standards or Personal Behaviours as defined within the jobholder's role profile;
- Low productivity or a lower output of work than is expected;
- Failure to achieve specified qualifications/training accreditation/learning programmes, which are required to undertake the duties of the role;
- Inadequate skills, knowledge or inability to apply skills and knowledge in the workplace; and
- Negative or apathetic attitude and lack of co-operation.

The following situations are examples of issues that would normally be regarded as conduct and therefore dealt with by the misconduct procedure;

- Breaching rules, regulations, policy or procedure;
- Breaching Code of Ethics or direction; and
- Negligence.

It should be accepted that any reasonable management action to challenge and deal with unsatisfactory performance is a

legitimate exercise of management responsibility and does not constitute Bullying and Harassment.

## 2. Unsatisfactory Performance Process

The Police (Performance and Attendance Regulations) 2016, set out the process which must be followed when using the unsatisfactory performance process. The process may cease at any stage where improved performance is maintained. There are potentially three stages:

1. First Stage Meeting
2. Second Stage Meeting
3. Third Stage Meeting

There is an appeals process, following each of the three stages.

Where a line manager considers the performance of a jobholder is unsatisfactory, despite the support of a Performance Support Plan, the line manager will require the jobholder to attend a **First Stage Meeting** to discuss performance.

## 3. First Stage Meeting

The line manager will send a notice in writing to the jobholder requiring attendance at a [first stage meeting](#) of the unsatisfactory

performance process, summarising the reasons why the jobholder's performance is unsatisfactory. This notice will also inform the jobholder of:

- The possible outcomes of a first stage meeting, a second stage meeting and third stage meeting;
- The right to seek advice from a staff association representative;
- The right to be accompanied and represented by a police friend (a police officer chosen by the jobholder who is not involved in the matter);
- Requirement for a copy of any document the jobholder intends to rely upon in the meeting, in advance of the meeting;
- The potential for any other member to attend the meeting including an Human Resource (HR) professional/Police officer, to advise the line manager with jobholder's consent; and
- Date, time and place for the meeting- (if practicable the date/time should be agreed with the jobholder)

*(The 'First Stage Meeting Invitation' pro forma available on PoliceNet should be used)*

### **Procedure at First Stage Meeting**

The meeting will be conducted by the line manager. An HR professional or police officer may be in attendance, to advise the line manager on proceedings, or any other

person, with the jobholder's prior consent.

The line manager will:

- Explain the reasons why the jobholder's performance is unsatisfactory and provide the jobholder with an opportunity to respond;
- provide the police friend with an opportunity to address the meeting, that is; *put forward the case of the jobholder, sum up the case, respond on behalf of the jobholder to any view expressed at the meeting, make representations concerning any aspect of the proceedings, confer with the Jobholder; and*
- Postpone or adjourn the meeting if it appears necessary or expedient to do so.

Following consideration of representations made by the jobholder and police friend, the line manager will consider if performance has been unsatisfactory. If the line manager concludes performance has been unsatisfactory, the line manager will:

- Inform the jobholder concerned in what respect performance is considered unsatisfactory;
- Inform the jobholder of the improvement that is required;
- Inform the jobholder of a Formal Written Improvement Notice, setting out a specified performance improvement period and notification of a 12 month validity

period for the Formal Written Improvement Notice. The jobholder must be advised that if satisfactory performance is not maintained for any part of the validity period, there will be requirement to attend a second stage meeting; and

- If possible, the improvement action plan should be agreed at the meeting, or at a later time specified by the line manager

If following consideration of representations, performance is deemed to be satisfactory, then no further action is required and normal performance management is resumed using the IPR process.

#### **Procedure following First Stage Meeting**

If performance is unsatisfactory, the line manager will prepare and forward to the jobholder within 7 working days following the first stage meeting:

- A written record of the meeting;
- A Formal Written Improvement Notice incorporating an action plan; and
- Details of the appeals procedure.

*(The 'Formal Written Improvement Notice' pro forma available on PoliceNet should be used)*

The jobholder may record written comments on the Written Improvement Notice only if they have NOT exercised their right to appeal.

The jobholder will take personal responsibility for their improvement and development.

The line manager must ensure actions to support the jobholder to improve, are implemented.

#### **Appeals Process**

The grounds for appealing the Formal Written Improvement Notice are as follows:

- The finding of unsatisfactory performance was unreasonable;
- Any of the relevant terms of the Formal Written Improvement Notice were unreasonable;
- New evidence that could not reasonably have been considered at the first stage meeting which could have materially affected the finding of unsatisfactory performance or any of the relevant terms of the Formal Written Improvement Notice; or
- A breach of procedure or other unfairness, which could have materially affected the finding of unsatisfactory performance, or any of the relevant terms of the Formal Written Improvement Notice.

The jobholder has 7 working days to submit an appeal to the Countersigning Manager (CSM), beginning with the first working day after receipt of the Formal Written

Improvement Notice. (*The CSM has authority to extend the 7 working day period, if it is appropriate to do so.*)

The jobholder is required to set out the grounds for appeal and any evidence upon which they intend to rely.

The CSM, following receipt of the jobholder's notice of appeal, will arrange an appeal hearing before the end of 7 working days, beginning with the first working day after receipt of the appeal and notify the jobholder in writing of the date and time of the first stage appeal meeting.

*(This time frame may be extended if the CSM considers it necessary or expedient to do so and will inform the jobholder)*

The jobholder will be required to follow the terms of the Formal Written Improvement Notice and accompanying action plan pending determination of the appeal.

### **First Stage Appeal Meeting**

The meeting will be conducted by the CSM and a HR professional, or police officer, may be in attendance to advise on the proceedings.

The CSM will provide an opportunity for the jobholder to make representations and provide the police friend an opportunity to address the meeting, in accordance with their role.

Following consideration of representations, the CSM will make one of the following findings:

1. Confirm the finding of unsatisfactory performance and the terms of the Formal Written Improvement Notice;
2. Reverse the finding of unsatisfactory performance and revoke the Formal Written Improvement Notice; or
3. Vary the terms of the Formal Written Improvement Notice.

Where the CSM has reversed the finding and revoked the Formal Written Improvement Notice, performance continues to be managed within the IPR process.

Where the CSM has varied any of the terms of the Formal Written Improvement Notice, this shall take effect from the date of the First Stage Meeting.

Before the end of 3 working days, beginning with the first working day after conclusion of the meeting, the jobholder shall be given written notice of the CSM decision and a written summary of the reasons for the decision.

*(First Stage Appeal pro forma available on PoliceNet should be used)*



## 4. Second Stage Meeting

A [second stage meeting](#) may be convened, where a jobholder has received a Formal Written Improvement Notice and the line manager's assessment of performance finds that:

- There has not been a sufficient improvement in performance, within the specified improvement period set out in the Formal Written Improvement Notice; or
- The jobholder has failed to maintain a sufficient improvement in performance during any part of the validity period of the Formal Written Improvement Notice remaining.

Initiation of the second stage meeting must be for matters similar to or connected with the unsatisfactory performance referred to in the Formal Written Improvement Notice at the first stage meeting.

### Arrangement of Second Stage Meeting

The CSM will send a notice in writing to the jobholder requiring attendance at a second stage meeting of the unsatisfactory performance process, summarising the reasons why the jobholder's performance is unsatisfactory. This notice will also inform the jobholder of:

- Possible outcomes of a second stage meeting and a third stage meeting;
- The right to seek advice from a staff association representative;
- The right to be accompanied and represented by a police friend;
- Whether the line manager will be in attendance;
- Requirement for a copy of any document the jobholder intends to rely upon in the meeting, in advance of the meeting;
- Potential for any other member to attend the meeting including an HR professional/Police officer to advise the line manager with jobholder's consent;
- A copy of any documentation relied upon by the line manager which informed the view that there was insufficient improvement in performance; and
- Date, time and place for the meeting- (if practicable the date and time should be agreed with the jobholder).

*(The 'Second Stage Meeting Invitation' pro forma available on PoliceNet should be used)*

### Procedure at Second Stage Meeting

The meeting will be conducted by the CSM. An HR professional or police officer may be in attendance, to advise the line manager on proceedings, or any other person, with the

jobholder's prior consent. The line manager will:

- Explain the reasons why the jobholder's performance is unsatisfactory and provide the jobholder with an opportunity to respond;
- Provide the police friend with an opportunity to address the meeting, that is; *put forward the case of the jobholder, sum up the case, respond on behalf of the jobholder to any view expressed at the meeting, make representations concerning any aspect of the proceedings, confer with the Jobholder;*
- Postpone or adjourn the meeting if it appears necessary or expedient to do so;
- Following consideration of representations made by the jobholder and police friend, the CSM will consider if performance has been unsatisfactory. **If performance has been unsatisfactory, the CSM will:**
- Inform the member concerned in what respect performance is unsatisfactory;
- Inform the Jobholder of the improvement that is required;
- Inform the jobholder of a Final Written Improvement Notice, setting out a specified performance improvement period and notification of a 12 month validity period for the Final Written Improvement Notice. The jobholder must be advised that if satisfactory performance is not maintained for any part of the validity

period, there will be requirement to attend a second stage meeting; and

- If possible, the improvement action plan should be agreed at the meeting, or at a later time specified by the line manager.

If following consideration of representations, performance is deemed to be satisfactory, then performance will continue to be managed within the terms of the Formal Written Improvement Notice.

### **Procedure following Second Stage Meeting**

If performance is unsatisfactory, the line manager will prepare and forward to the jobholder within 7 working days following the second stage meeting:

- A written record of the meeting;
- A Final Written Improvement Notice, to incorporate action plan; and
- Details of the appeals procedure.

*(The 'Final Written Improvement Notice' pro forma available on PoliceNet should be used)*

The jobholder may record written comments on the Final Written Improvement Notice only if they have NOT exercised their right to appeal.

The jobholder will take personal responsibility for their improvement and development.

The managers must ensure actions to support the jobholder to improve, are implemented.

### **Second Stage Appeal Meeting**

The meeting will be conducted by a senior manager (Countersigning manager's manager) and a HR professional or police officer may be in attendance to advise on the proceedings.

The senior manager will provide an opportunity for the Jobholder to make representations and provide the police friend an opportunity to address the meeting, in accordance with their role.

Following consideration of representations, the senior manager will make one of the following findings:

1. Confirm the finding of unsatisfactory performance and the terms of the Final Written Improvement Notice; or
2. Reverse the finding of unsatisfactory performance and revoke the Final Written Improvement Notice; or
3. Vary the terms of the Final Written Improvement Notice.

Where the senior manager has reversed the finding and revoked the Final Written Improvement Notice, performance continues

to be managed within the terms of the Formal Written Improvement Notice.

Where the senior manager has varied any of the terms of the Final Written Improvement Notice, this shall take effect from the date of the Second Stage Meeting

Before the end of 3 working days, beginning with the first working day after conclusion of the meeting, the jobholder shall be given written notice of the senior manager's decision and a written summary of the reasons for the decision.

*(Second Stage Appeal pro forma available on PoliceNet should be used)*

### **Third Stage Meeting**

A third stage meeting may be convened where a Jobholder has received a Final Written Improvement Notice and the line manager's assessment of performance finds that:

- There has not been a sufficient improvement in performance, within the specified improvement period set out in the Final Written Improvement Notice; or
- The jobholder has failed to maintain a sufficient improvement in performance during any part of the validity period of the Final Written Improvement Notice remaining.

Initiation of the third stage meeting must be for matters similar to, or connected with unsatisfactory performance referred to in the Final Written Improvement Notice

## 5. Third Stage Meeting

The line manager will send a notice in writing to the jobholder, requiring the jobholder to attend a [third stage meeting](#) of the unsatisfactory performance process with a panel and summarising the reasons why the jobholder's performance is unsatisfactory.

This notice will also inform the Jobholder of:

- The possible outcomes of a third stage meeting;
- The right to seek advice from a staff association representative;
- Counsel or a solicitor may attend the meeting to advise the panel on the proceedings and on any question of law that may arise at the meeting;
- The right to be accompanied and represented by a police friend;
- Advise that an HR professional and a police officer may attend the meeting to advise the panel on proceedings;
- The potential for any other person specified to attend the meeting including an HR professional/Police officer to advise the line manager, with jobholders consent;

- A copy of any documentation relied upon by the line manager which informed the view that there was insufficient improvement in performance; and
- Date, time and place for the meeting- (if practicable the date and time should be agreed with the jobholder).

*(The 'Third Stage Meeting' pro forma available on PoliceNet should be used)*

There may be circumstances in which a third stage meeting may be required without a prior first or second stage meeting. This will only occur where the performance of the jobholder constitutes **gross incompetence**.

The decision to initiate the gross incompetence stage of the unsatisfactory performance process must be authorised by a senior officer (above the rank of Chief Superintendent).

### Panel Members

The make- up of panel members is as follows:

**1<sup>st</sup> panel member (chair);** Senior Officer (above the rank of Chief Superintendent); or Senior HR professional.

**2<sup>nd</sup> panel member;** Member of at least the rank of Superintendent; or HR professional, who is at least of equivalent rank.

**3<sup>rd</sup> panel member;** Member of at least the rank of Superintendent; or a member of police support staff who is at least equivalent to that rank.

*(None of the panel members should be junior in rank to the jobholder concerned)*

Each panel member will receive a copy of documentation which was available:

- To the line manager in the first stage meeting;
- To the second line manager in the second stage meeting;
- Which was prepared or submitted under the procedure following first stage meeting/first stage appeal meeting, second stage meeting/second stage appeal meeting; and
- Which was prepared for the assessment following second stage meeting in preparation for third stage meeting, or if Gross Incompetence, documentation relied upon to consider performance constituted gross incompetence.

The Jobholder may object to the appointment of any of the panel members. The senior officer will consider the grounds for the objection and either uphold or reject. If the senior manager upholds the objection, the panel member will be removed and appointment of a new panel member will be made.

### **Procedure on receipt of third stage meeting**

The Jobholder will provide to the senior manager (countersigning manager's manager), within 20 working days, beginning first working day after the date the 3<sup>rd</sup> stage meeting notice was received by the jobholder:

- Written notice of whether or not they accept performance has been unsatisfactory or grossly incompetent;
- Provide any written submission in mitigation; and/or
- If not accepting that performance has been unsatisfactory/grossly incompetent, details of the matter of dispute within the Final Written Improvement Notice and any arguments on points of law to be considered by the panel.

The jobholder and the senior manager will each supply to each other and agree a list of proposed witnesses, before the end of 3 working days beginning first working day after the date on which the Jobholder has notified acceptance/non acceptance of Final Written Improvement Notice.

The list of proposed witnesses will be supplied to the Panel Chair, who will consider the list and determine which, if any, should attend the third stage meeting.

The third stage meeting will take place before the end of 30 working days beginning first

working day on which the Jobholder received notice to attend third stage meeting. (*This may be extended if the Panel Chair considers it is in the interest of fairness to do so, for example absence through illness or injury*).

If a delay in the hearing is considered not appropriate, the panel chair may allow the jobholder to participate by video link, or other means. The police friend and jobholder's legal representation will attend to represent the jobholder in the normal way.

### **Procedure at third stage meeting**

The Panel chair will provide the jobholder an opportunity to make representations in relation to the issues as set out in the Final Written Improvement Notice.

The police friend and/or person representing the jobholder will be provided with an opportunity to make representations regarding the Final Written Improvement Notice.

A verbatim record of the meeting will be taken and supplied to the jobholder upon request. The panel chair may adjourn the meeting, if it is necessary or expedient to do so. The panel will make a finding on whether performance of the Jobholder:

1. During the specified period of the Final Written Improvement Notice has been satisfactory or not;
2. During any part of the validity period of the Final Written Improvement Notice has been satisfactory or not; and
3. In the case of gross incompetence, whether the performance of the jobholder constitutes gross incompetence, unsatisfactory performance, or neither.

Any decision of the panel will be made by a majority. (*Whether the decision was unanimous or a simple majority does not need to be disclosed to the jobholder*).

### **Panel Outcomes**

If the panel makes a finding that performance of the jobholder was unsatisfactory during the specified period of the Final Written Improvement Notice, or during any part of the validity period of the Final Written Improvement Notice, may order:

1. Dismissal with notice ( subject to a minimum of 28 days' notice);
2. Reduction in rank with immediate effect;
3. Redeployment to alternative duties which may involve a reduction in rank; or
4. Extension of the Final Written Improvement Notice – (*only where the panel are satisfied there are exceptional*

*circumstances that justify it. This can only be given on one occasion. Where the jobholder is required to attend a further third stage meeting, the process shall apply as if the jobholder was attending for the first time, that is following a second stage meeting).*

If the panel makes a finding that performance of the jobholder constituted gross incompetence, may order:

1. Dismissal with immediate effect;
2. Reduction in rank with immediate effect;
3. Issue of a Final Written Improvement Notice (*which will set out what respect performance was unsatisfactory, improvement required and notification of a third stage meeting, if there is insufficient improvement within the specified improvement period, or within the validity period*);
4. Redeployment to alternative duties which may involve a reduction in rank; or
5. If panel considers that performance is unsatisfactory and not gross incompetence, a Written Improvement Notice, may be issued. (*This will be equivalent to a Written Improvement Notice issued at a first stage meeting*).

Where the panel make a finding of unsatisfactory performance/gross incompetence and before deciding on an appropriate outcome, the panel must have regard to the personal record of the jobholder and any mitigation or references put forward on the jobholder's behalf.

If the panel make a finding that performance was not unsatisfactory, then performance continues to be managed within the terms of the Final Written Improvement Notice.

### **Procedure following the Third Stage Meeting**

The panel will provide their decision in writing, including the reasons for the decision and any outcomes, to the jobholder and line manager before the end of 3 working days beginning with the first day after the conclusion of the meeting.

Where the panel have made a finding of unsatisfactory performance or gross incompetence, the decision will also include notification and timeframe for appeal to Police Appeals Tribunal.

### **Third Stage Appeal**

Following a third stage meeting, the jobholder may appeal to a Police Appeals Tribunal, however any finding and outcome of the third stage meeting will continue to apply up to the date that the appeal is determined.

The Police Appeals Tribunal is not a rehearing of the original matter. Its role is to consider an appeal based on the following specific grounds:

- The finding or outcome imposed was unreasonable;
- Evidence that could not reasonably have been considered at the original hearing which could have materially affected the finding or decision on the outcome;
- A breach of the procedures set out in the Unsatisfactory Performance Process, or other unfairness, which could have materially affected the finding or decision on the outcome; or
- Requirement for the jobholder to attend a third stage meeting that did not concern unsatisfactory performance similar to, or connected with, the unsatisfactory performance in the Final Written Improvement Notice.

The Jobholder is required to give notice of appeal to the Police Appeals Tribunal before the end of 10 working days beginning with the first working day after the day the written copy of the decision was received.

Where there has been a finding of unsatisfactory performance following a third stage meeting. The jobholder may appeal against the outcome of:

1. Dismissal with notice; or
2. Reduction in rank.

Where the jobholder was required to attend a third stage meeting for gross incompetence, without having progressed via stage 1 and stage 2, the jobholder may appeal against the following:

1. Dismissal without notice;
2. Reduction in rank;
3. Redeployment to alternative duties;
4. Issue of a Written Improvement Notice; or
5. Issue of a Final Written Improvement Notice.

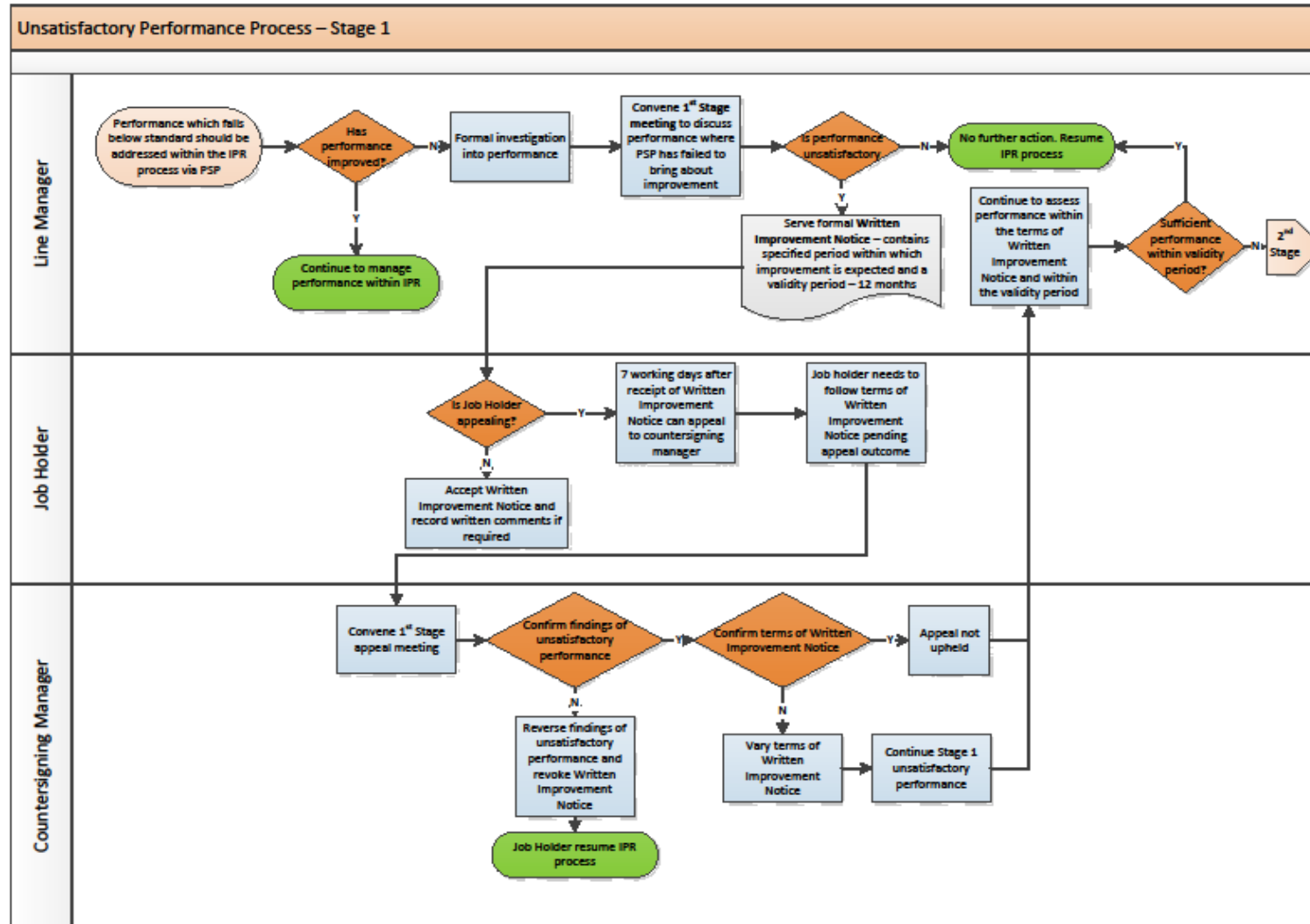
A jobholder may not appeal against a finding of unsatisfactory performance or gross incompetence where the jobholder has accepted performance has been unsatisfactory or grossly incompetent.

The Jobholder should be aware the tribunal may impose any sanction available to the original hearing and therefore has the power to increase, as well as reduce the outcome imposed by the original panel.

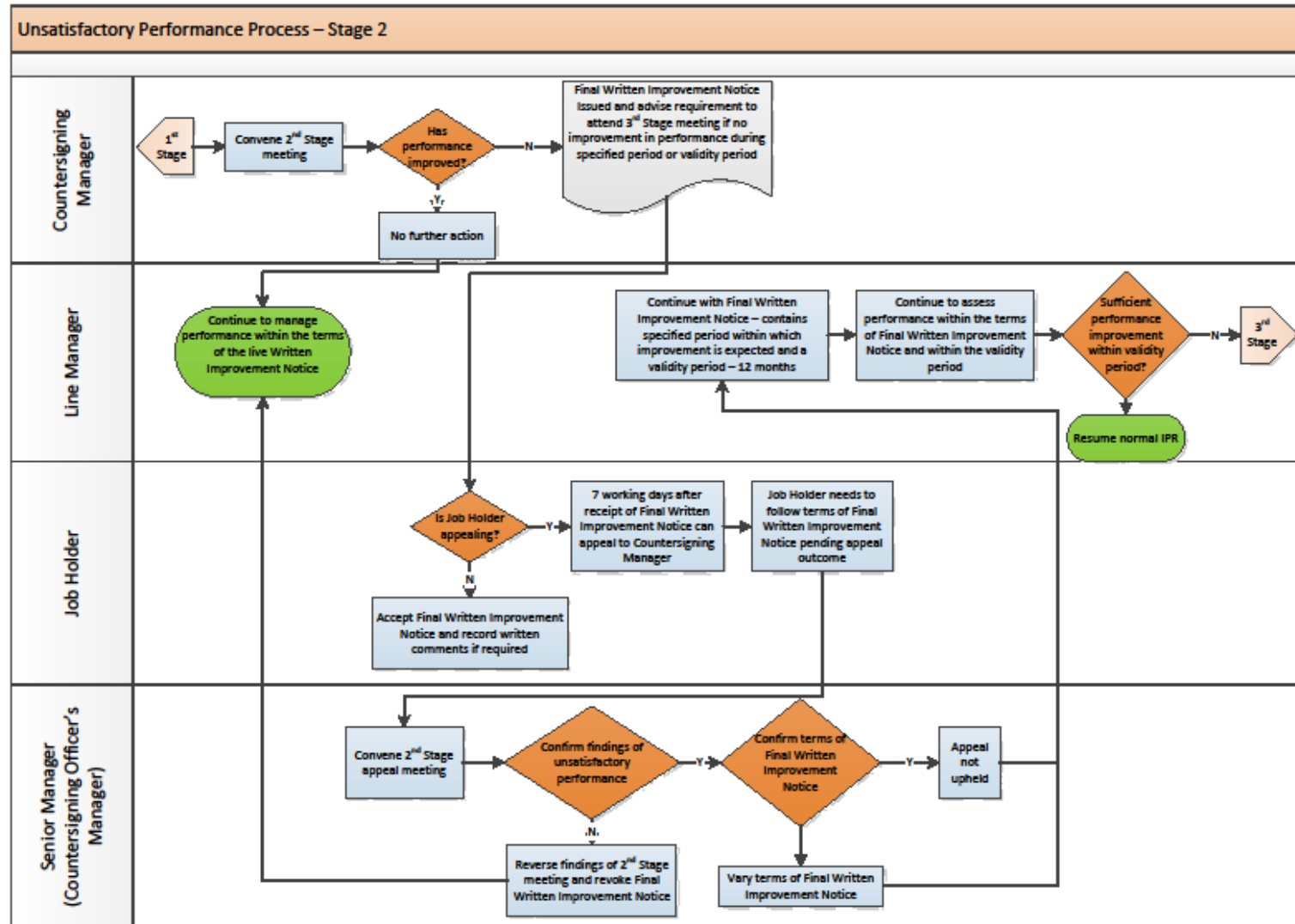
The Police Appeals Tribunal decision is final.



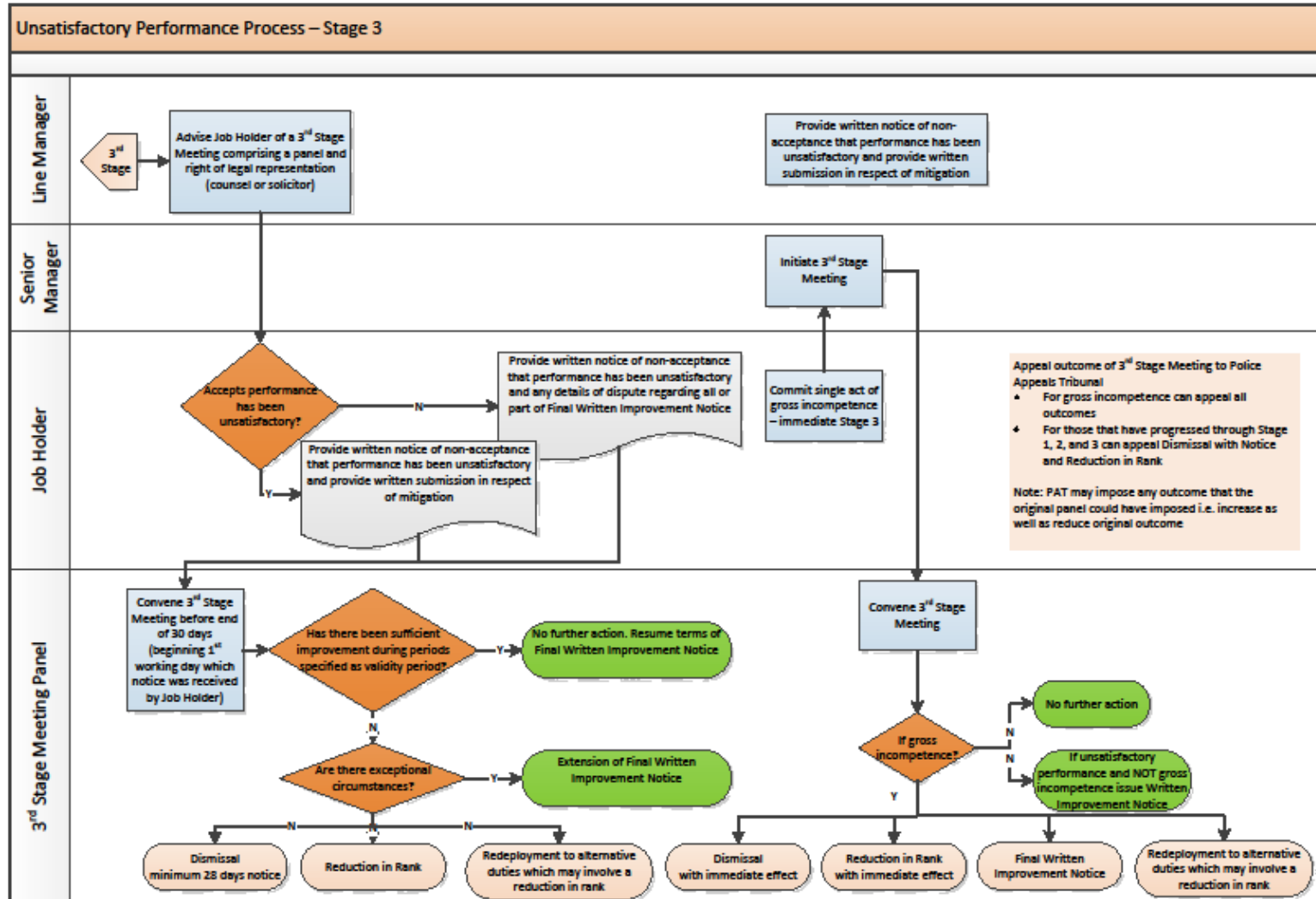
**Appendix A Stage 1 Unsatisfactory Performance Process**



**Appendix B Stage 2 Unsatisfactory Performance Process**



**Appendix C Stage 3 Unsatisfactory Performance Process**



## **Appendix D Contact Us**

### **Service Instruction Author**

HR Service Centre ext 44444