

*Approved by Trustee Board: October 2021*

*Review Period: 3 Years*

hwunion.com

*Heriot-Watt Student Union*

***PERFORMANCE POLICY***

### 1. OVERVIEW

1.1 The Heriot-Watt University Student Union (HWUnion wants all employees to be able to perform effectively in their role, with colleagues and stakeholders). This policy provides guidance on how to address a situation where the performance of an employee falls short of that expected to fulfil the requirements of their post at HWUnion.

1.2 The policy applies to all employees (including Full Time Officers) and workers but does not apply to self-employed contractors.

1.3 If you are an employee, this policy does not form part of your employment contract and we may update it at any time.

1.4 HWUnion will ensure that its approach to managing performance issues is fair and consistent; the Student Union’s values of equality, diversity and inclusion will be observed in all aspects of managing performance-related matters.

### 2. PURPOSE

2.1 All HWUnion employees have a contractual responsibility to perform their duties for the Student Union to a satisfactory level.

2.2 It is beneficial for the organisation and the employee to address underperformance promptly. HWUnion will manage performance both on an ongoing basis throughout the year and through the annual Pay and Reward review processes. Where performance is found to be less than satisfactory, HWUnion will take initial steps to identify why this is the case and to work with the employee to address it.

2.3 If the cause is found to be due to misconduct (for example, negligence or lack of effort), disciplinary procedures would normally be applied; however, lack of performance in the way an employee conducts their role is not a disciplinary issue and will not be treated as such. If poor health or disability issues are impacting adversely on performance, HWUnion would normally apply its Absence Management policy.

2.4 Where poor performance is found to be due to a lack of the required knowledge, skills or ability to carry out the functions of the employee’s role to a satisfactory standard, this Performance Policy would apply. In these circumstances, HWUnion will use this policy and the procedures detailed here to try to help the employee achieve the required standards and will offer support and a reasonable timeframe to allow for improvement.

2.5 A positive outcome for the organisation and the employee would be improved contribution to the work of the Student Union and increased satisfaction for the individual in being able to carry out their duties effectively. In some cases, the outcome of review of performance under this policy might need to result in redeployment to a more suitable position (if HWUnion has the capacity to be able to offer this) or to dismissal.

### 3. PROCESS

3.1 Before reaching a point where it is necessary to invoke this Policy in managing an employee’s performance, HWUnion will already have undertaken discussions with the member of staff as part of ongoing and annual review, and the employee will have been made aware that their performance falls short of that required to carry out their role. The following stages of the Performance Policy are a continuation and escalation of the HWUnion processes for managing an employee’s underperformance.

#### Stage 1

3.2 An initial ‘Performance Review’ meeting should be arranged by the line manager. The employee should be given at least one week’s advance notice in writing of the meeting at which the employee’s continuing unsatisfactory performance will be discussed, together with the previous steps taken to try and address this, as well as examining the cause of the problem, and considering what more can be done to improve the situation.

3.3 A written ‘Plan for Improvement’ will be drawn up and agreed by the line manager and the employee; this will contain specific time-limited actions and required outcomes. A reasonable timescale should be included as part of the Plan, and both the employee and the line manager should have a copy of the finalised Plan for their records. A written record of the meeting and the actions agreed should also be provided by the line manager to the employee. A further meeting date should be set for review.

3.4 Action which might be suggested to assist the employee could include, for example, training, coaching, mentoring, other forms of professional development or job shadowing (if HWUnion is able to accommodate this).

#### Stage 2

3.5 At the end of the agreed timescale for improvement following Stage 1, the process will move to Stage 2 and the line manager will hold a further meeting with the employee. At this meeting, the line manager and the employee will review progress against the written Plan for Improvement.

3.6 If the employee has reached the required standard of performance, no further action is required; the line manager will confirm this in writing to the employee.

3.7 Where performance continues to be less than satisfactory, the line manager will give specific examples of where performance has continued to fall below the required standard. The line manager will reiterate the steps/ actions taken to date to try to help the employee improve their performance and to note what improvement, if any, there has been since the last meeting. The employee will also be invited to provide comments.

3.8 The line manager will consider with the employee what further action could be taken to help achieve the required performance level. Consideration will be given to whether the Plan for Improvement should be updated and continued for a further period, with revised or extended time-limited actions and outcomes.

3.9 The possibility of redeployment to a more suitable position (if this is possible for HWUnion to offer) may need to be raised at this meeting. The line manager must also make it clear to the employee at this meeting that their job is now seriously at risk if the required level of improvement is not achieved and sustained.

3.10 A written record of the meeting and the actions agreed in the meeting should be provided by the line manager to the employee, together with the updated Plan for Improvement (where relevant).

#### Stage 3

3.11 A Performance Hearing will be arranged as Stage 3 of the process if there is failure to achieve satisfactory performance at the end of Stage 2.

3.12 The Performance Hearing will be chaired by an external (independent) member of the HWUnion Board of Trustees and the Panel will comprise three individuals. The Panel will include the HWUnion Chief Executive Officer (CEO) (where the CEO is not the line manager of the individual and has not been involved in the previous stages of review of performance) and one other member of staff of HWUnion at a more senior grade to the individual and who has also not previously been involved in managing or reviewing the employee’s performance. The line manager will be invited to attend the hearing and will be asked to provide background information on the case. The employee will also be asked to provide comments to the Panel on their performance and actions taken to address the underperformance issues.

3.13 The employee should be given at least one week’s notice, in writing, of the hearing. It is the employee’s responsibility to attend the hearing at the appointed time. If there is good reason why this is not possible, the Student Union will normally be willing to reschedule the hearing once. If the employee is unable to attend the hearing due to sickness, a second date will be offered. However, if the employee is unable to attend a meeting within a reasonable period of time, the Panel may have to proceed and reach a decision on the case in the absence of the employee.

3.14 An employee is entitled to be accompanied to a Performance hearing by a colleague or trade union representative, not a solicitor or lawyer. The employee should inform HWUnion as soon as possible in advance of the hearing if they wish to exercise this right and should make the arrangements for them to attend. If the employee chooses a work colleague, it may be necessary for HWUnion to rearrange the hearing if their absence from work could cause operational difficulties.

3.15 The employee’s colleague or trade union representative can explain the key points of the employee’s perspective of the case at the hearing and can confer with the employee during the hearing but cannot answer questions put directly to the employee by the Panel or try to prevent the Panel asking questions.

3.16 HWUnion may record the hearing but will not do so without informing the employee. The employee may also record the hearing and should let HWUnion know in advance if they wish to do so; a better quality recording will be possible if this is done openly rather than covertly.

3.17 A formal note-taker should attend the hearing but will not participate in the discussions or deliberations of the hearing. The record of the hearing should be confidential, with a copy provided to the employee within two weeks of the hearing and a copy retained on the individual’s HWUnion file.

3.18 Outcomes from the hearing could include a further extension being granted for performance improvement, or redeployment (where this can be accommodated), or dismissal of the employee on the grounds of lack of Performance to carry out their HWUnion role. The employee will be informed of the outcome verbally as soon as possible after the Performance hearing and this should be confirmed in writing within two weeks of the hearing.

3.19 Where a further extension is being granted by the Hearing Panel, the outcome letter will record: the reasons why current performance continues to fall short of the standards required; the additional period of time being granted and the standards expected to be achieved at the end of this period; any training and/ or support to be provided during this period; the frequency of further reviews of progress; and the consequences of failure to improve sufficiently within the further defined period (ie potential dismissal).

3.20 If the Hearing Panel decides that redeployment or dismissal is the only possible outcome, the letter to the employee will record: the continuing nature of the unsatisfactory performance in the current role; the processes followed to date to support the employee in achieving the required standard of performance; confirmation that the employee is now being redeployed or dismissed and, if the latter, the relevant notice period; and the employee’s right of appeal.

### 4. APPEALS

4.1 An employee who wishes to appeal against the outcome decision taken by the Hearing Panel at Stage 3 should write to the CEO within 10 working days, explaining clearly why they feel they have a good case for appeal. An Appeal Panel will be set up following the processes outlined in Section 3 of this Policy but with different members from those involved in the Performance Hearing ie individuals who have not previously been involved in the case and whose remit will be to consider the grounds for appeal fairly and independently.

4.2 The Appeal Panel will not rehear the substance of the Stage 3 Performance hearing. Grounds for appeal would normally be due to deficiencies at an earlier stage of the process, for example, further evidence being made available which was not previously brought to the attention of the Performance hearing panel; insufficient consideration of specific factors during the hearing; a flaw in procedures which could have had an adverse influence on the outcome; or where the outcome does not seem appropriate based on the findings of the Stage 3 Performance hearing Panel.

4.3 The decision of the Appeal Panel will be final.

### 5. RECORDS

5.1 At each stage of the review of an employee’s underperformance as part of the Performance procedures, a complete record must be maintained of the discussions, actions and outcomes. These records will be retained confidentially on the employee’s file, monitored under equality legislation, and retained in accordance with the Data Protection Act 1998 legislation and with HWUSU’s Records Retention policy.

### 6. REVIEW OF THE HWUnion PERFORMANCE POLICY

6.1 This policy will be reviewed every three years by the HWUnion Board of Trustees, with additional reviews where significant changes are identified as being required.