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| **Human Resources** | **HR51 Managing Probationary Policy** |

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| **Version Number** | **Date Issued**  | **Review Date** |
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| **Formally Approved:** | July 2022 |
| **Approved By:** | ICB Board |

**EQUALITY IMPACT ASSESSMENT**

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| **Date** | **Issues** |
|  | To be completed, as outlined in the agreed 2022/23 HR EIA review schedule. |

**POLICY VALIDITY STATEMENT**

Policy users should ensure that they are consulting the currently valid version of the documentation. The policy will remain valid, including during its period of review. However, the policy must be reviewed at least once in every 3-year period.

**ACCESSIBLE INFORMATION STANDARDS**

If you require this document in an alternative format, such as easy read, large text, braille or an alternative language please contact necsu.icbhr@nhs.net

**Version Control**

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# **1. Policy Statement**

1.1 All new employees to the Organisation will enter a probationary period in order to assess the work of the employee, allow the new employee to assess the suitability of the role with the benefit of first-hand experience and to determine if the employee is competent to perform their role. The probationary period provides an opportunity to allow a two-way exchange with regular, meaningful feedback between managers and new employees. If there are concerns about performance, these issues can be addressed early so that all avenues of support can be explored and put in place.

1.2 With other measures such as induction, the probationary period provides a consistent means by which new employees can be supported to become effective as quickly as possible and contribute positively to the organisation’s objectives.

1. **Introduction**

2.1 The probationary period is written into the employee’s contract of employment and it is considered an extremely useful management tool, provided it is well structured and properly implemented. The Organisation is committed to the safety and welfare of its employees and ensuring staff are fully integrated and productive from the earliest opportunity. The probationary period provides the following:

* Time to clarify duties and responsibilities of the role and the standards required of the new employee
* Identification of any development needs and to provide learning opportunities to assist in attaining the required standards of conduct, performance and attendance
* Opportunity for the new employee to receive constructive feedback in order to make improvements where needed

2.2 The Organisation expects high standards of performance and behavior from all employees in line with the key principles of the NHS Constitution and the Organisation’s Vision and Values. A period of probation is a defined amount of time at the start of employment with the Organisation which determines whether an employee is able to meet the requirements of the job in terms of performance, conduct and attendance. This policy is designed to support this process to ensure that all employees are able to undertake their duties satisfactorily and, if standards are not met, there is a fair and consistent mechanism to support employees to improve performance to successfully complete the probationary period. If the required performance standards are not met during the probationary period, the probationary period may be extended or employment may be terminated.

2.3 In line with the NHS national pay framework and Terms and Conditions of Service, continuous service commences from the first day of employment.

# **Policy Scope**

3.1 The policy applies to all new Organisation employees, regardless of whether they have left and subsequently returned to the Organisation after a break in employment.

3.2 If, during the probation period, an employee changes their role, for example due to promotion, their probationary period will continue.

3.3 The probation procedure does not apply to substantive employees who move to a new role within the Organisation; should there be performance concerns in this situation, the HR16 [Managing Work Performance Policy](https://intranet.necsu.nhs.uk/docs/Policies/Managing%20Work%20Performance%20Policy.pdf) would apply.

# **Aim of Policy**

4.1 The aim of this policy is to set out the appropriate process to be followed to ensure there is a fair, consistent and transparent approach to supporting staff through their probationary period.

4.2 The objectives of this policy are:

* To enable employees to achieve standards of conduct, performance and attendance in order to provide the optimum standard of care to patients.
* To ensure that managers, staff representatives and employees are aware of their rights and obligations in respect of the probationary process.
* To ensure compliance with relevant employment legislation and best practice guidance.
* To provide a timely mechanism to support and/or manage new employees should difficulties arise.

# **Equality and Inclusion**

 In applying this policy, the Organisation will have due regard for the need to eliminate unlawful discrimination**,** promote equality of opportunity**,** and provide for good relations between people of diverse groups, in particular on the grounds of the following characteristics protected by the Equality Act (2010); age, disability, gender reassignment, marriage or civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

1. **Data Protection**

 In applying this policy, the Organisation will have due regard for the Data Protection Act 2018 and the requirement to process personal data fairly and lawfully and in accordance with the data protection principles. Data Subject Rights and freedoms will be respected and measures will be in place to enable employees to exercise those rights. Appropriate technical and organisational measures will be designed and implemented to ensure an appropriate level of security is applied to the processing of personal information. Employees will have access to a Data Protection Officer for advice in relation to the processing of their personal information and data protection issues.

# **Monitoring compliance with the policy**

 The policy and procedure will be reviewed periodically by Human Resources in conjunction with operational managers and Trade Union representatives. Where review is necessary due to legislative change, this will happen immediately.

**Part 2 - Procedure**

**1. Length of probationary period**

* The standard length of the probationary period is three months; however there may be exceptional circumstances where this may be extended by up to six months. This should be a reasonable period of time to give the employee the opportunity to learn the key elements of the role, and receive necessary training.
* The probationary period may be extended where the new employee is not performing to the required standard during the three month stage. While it is hoped that employees can be coached and guided to improve it is important that the employee is informed of this well in advance of the formal end of probation review.

# **2. Roles and Responsibilities**

**The Executive Team/Committee**

The Executive Team/Committee is accountable to the Organisation Governing Body for ensuring compliance with this policy and consistency in its application.

**Line Managers**

The line manager is responsible for monitoring an individual’s probationary period and ensuring the new employee receives regular supervisory support, feedback on their performance, guidance on what is required from them and standards that need to be met.

**The key responsibilities for managers include:**

* To ensure this policy is implemented fairly and consistently and employees understand the required standard expected to pass their probationary period.
* To ensure that employees receive a full induction and complete statutory and mandatory training to maximise the chance of a successful induction period.
* To ensure employees receive the appropriate levels of support and training to achieve the required standards and ensure it takes place at the earliest opportunity.
* To inform the employee and openly record when instances of underperformance occur at the earliest opportunity.
* To set clear, appropriate, reasonable performance objectives and targets.
* Ensure the new employee is aware of the possible outcomes, should they not fulfil and maintain the required standards.
* Agree probationary review dates with the new employee and ensure they are undertaken.
* Seek advice from your HR Business Partner should the new employee not fulfil the required standards.
* To hold a minimum of three probationary review meetings

**Employees**

* To ensure that employees maximize the use of their probationary period to support their successful introduction to the organization.
* To ensure they keep their line manager informed about any work related or personal issues which may affect their performance without fear of repercussions.
* To participate in any meetings as part of this policy and make every effort to achieve the required standards.
* To understand their job description which outlines the duties, tasks and responsibilities of their role and therefore the levels of required performance.
* Ensure they are familiar with the probationary period procedure and if necessary seek clarification from their line manager or their HR Business Partner.
* Identify whether any additional training, support, adjustments or further knowledge is required to fulfil the role and discuss this with their line manager.
* Complete statutory and mandatory training within the first one to two weeks of employment.
* Discuss any health problems, which may have an impact on their ability to fulfil their role and responsibilities.

**Human Resources**

* To monitor and review the effectiveness of this policy.
* Provide guidance and assistance to managers and new employees about the implementation of this procedure to ensure a consistent and fair approach within the Organisation.
* To provide support and advice to managers with the monitoring and completion of probationary periods or where any termination of employment is considered.
* Provide support and advice re reasonable adjustments for disabilities and other equalities issues.

# **3. Probation Review Cycle**

* During the probationary period the attendance, performance and conduct of the new employee should be monitored and discussed with the employee on a regular basis, during one-to-one meetings and during Probationary Review Meetings.
* Probationary Review Meetings should take place on a regular basis throughout the probationary period and it is expected that a minimum of 3 meetings will take place, other than in exceptional circumstances when the probation period timescales may be reduced e.g. where it is evident that there are fundamental difficulties with the new employee being able to fulfil the role early on in the probationary period. After speaking with the employee, the line manager may feel that the difficulties cannot be resolved and regardless of any time frame, support and training the employee is not going to achieve the required standards.
* A line manager can progress to a Final Probation Review Meeting at any point during the probationary period where significant concerns are raised and following advice from HR.
* The purpose of the Probationary Review Meeting is to assess how the new starter is performing against the expected and required standards of Organisation employees and the roles and responsibilities as set out in the job description. The meetings will highlight where the new employee is performing well, establish if any additional support and development is necessary e.g. training, reasonable adjustments, discuss any unacceptable standards and expected improvements.
* The new employee should be encouraged to identify and discuss any difficulties and methods of resolving these. If at any stage during the probationary period, the new employee’s performance or work is unsatisfactory and does not fulfil the standards previously agreed, the employee must be informed and any necessary support and training must be provided to enable the employee to improve. These actions must be clearly documented and communicated with the new employee via objectives that can be reviewed.
* Notes of the meetings, including areas for improvement and agreed actions, must be recorded on a Probation Review Form. A copy of the review form must be provided to the employee and retained on their personal file.
* The Organisation has the right to terminate the new employee’s contract at any point during the probationary period should the required standards and performance levels not be met.

# **4. Absence Support**

* If the new employee has poor attendance which is believed to be impacting on their performance and work, appropriate support will be given to help improve attendance in accordance with the Absence Management Policy.
* An employee with a disability as defined under the Equality Act 2010 who is not able to attain the required standards of performance during their probationary period may require additional support. An assessment of any reasonable adjustments required should be undertaken and advice sought from your HR Business Partner.

# **5.** **Principles**

* The reviewer in most instances will be the line manager and should know the individual’s work sufficiently to be in a position to discuss performance and progress
* Throughout this process staff should feel valued, supported and treated with dignity, respect and fairness. The Organisation promotes a workplace free from bullying, harassment and discrimination.

# **6. Confidentiality**

* Probation reviews and associated documentation are confidential and any information shared should be for the purpose of accessing support, training and guidance to assist the employee to meet the required standard. Once the probationary period is complete, all related documentation should be forwarded to the Organisation HR department for inclusion in an individual’s personal file.

# **7. Induction Process**

* The probationary review cycle will only be successful when new employees are properly inducted into the Organisation. Within one to three months the employees should have participated in a local induction into their role. In line with the Induction policy, Managers must record the induction using the induction plan, this must be completed within one to three month of the employee’s commencement date, and a copy must be placed on the employee’s personal file. An employee should participate in an initial appraisal / objection setting discussion with their manager. This is to ensure the employee is clear about what is expected of them and to make sure that all of their learning needs are clearly identified.

# **8. Probation Review Meetings**

* The probation review meeting should be in addition to and not a substitute for good day to day people management. It is essential that all new employees have an understanding of their job role and have access to the right levels of support and training to ensure they can meet the expected standards.
* It is the individual and line manager’s joint responsibility to ensure the review meetings are completed in line with this policy. The process should be transparent to enable the employee to understand the required standard. It is acknowledged that circumstances outside of their control (i.e. dates when training courses run) may alter the timescales. Any issues identified should be raised immediately to allow an employee the opportunity to address in the spirit of a ‘no surprise’ approach. The review meetings do not prevent regular staff supervision and it may be appropriate to meet to review any action plans set more frequently than the timescales outlined in this policy.
* The meetings will remain confidential and provide a two-way process to discuss achievements, concerns and any areas where additional support, training or guidance is required. The manager should work with the employee to understand any underlying reason for poor conduct, performance and attendance.

# **9. Preparing for a Probation Review Meeting**

* Both the reviewer and employee have a responsibility to prepare for the probation review meeting and bring relevant information which enables meaningful discussion and review of performance.

**Stage One – First Probation Review Meeting**

(To happen within the first 4 weeks)

* The purpose of the first probation review meeting is to review performance to date, assess suitability for the role and agree upon any next steps. The first probation review meeting is an opportunity to discuss progress in line with any objectives set in addition to reviewing overall conduct, performance and attendance. It is essential to make sure the employee has received the right level of training and support to enable them to succeed in their role.
* At this review meeting there are three possible outcomes as detailed below:

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| **Stage One – First Probation Review Meeting** |
| **Options** | **Progress** | **Progress with actions** | **Unsatisfactory** |
| **Detail** | Required standard of performance has been met, including statutory and mandatory training. Employee progresses with no action plan. Employee continues in post and understands the requirements of the role and standards expected to complete their probation.Any additional support,training or guidance ismade available. | An employee will progress with actions where there is some progress but also remedial action required.A full action plan should be Developed including any training needs.An employee should have a clear understanding of the requirements of the role and standards expected to complete their probation. Consider support fromOccupational Health | If there is unsatisfactory conduct, performance or attendance issues that have continued despite informal discussions and remedial support and training, it may be necessary to escalate to a final Probation Review Meeting. |
| **Manager’s Next Step** | Arrange second probationary review by week 8 of employment and the employee is aware of the date.The outcome of the probation meeting should be recorded and documented. | Arrange second probationary review by week 8 of employment and ensure the employee is aware of the date. Set an action plan in conjunction with the employee. The action plan’s deliverables should be set within this timeframe to enable the employee to demonstrate improvement at the next probationary review meeting.The outcome of the probation meeting should be recorded and documented. | Consider escalating to a final probation review meeting. The outcome of the probation meeting should be recorded and documented.Liaise with HR Business Partner where appropriate. |

**Stage Two – Second Probation Review Meeting**

 (usually happens by week 8)

* At this meeting conduct, performance, attendance and any action plan previously implemented at the first probation review meeting must be reviewed. An employee should bring examples of progress and achievements.
* At this review meeting there are three possible outcomes as detailed below:

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| **Stage Two – Second Probation Review Meeting** |
| **Options** | **Progress** | **Progress with actions** | **Unsatisfactory** |
| **Detail** | Required standard of performance has been met, including statutory and mandatory training. Employee progresses with no action plan. Employee continues in post and understands the requirements of the role and standards expected to complete their probation.Any additional support,training or guidance ismade available. | An employee will progress with actions where there is some progress but also remedial action required.A full action plan should be Developed including any training needs.An employee should have a clear understanding of the requirements of the role and standards expected to complete their probation. Consider support fromOccupational Health | If there is unsatisfactory conduct, performance or attendance issues that have continued despite informal discussions and remedial support and training, it may be necessary to escalate to a final Probation Review Meeting. |
| **Manager’s Next Step** | Arrange third probationary review by week 12 of employment and ensure the employee is aware of the date. The outcome of the probation meeting should be recorded and documented. | Arrange second probationary review by week 12 of employment and ensure the employee is aware of the date. Set an action plan in conjunction with the employee. The action plan’s deliverables should be set within this timeframe to enable the employee to demonstrate improvement at the next probationary review meeting. The outcome of the probation review meeting should be recorded and documented. | Consider escalating to a final probation review meeting. The outcome of the probation meeting should be recorded and documented.Liaise with HR Business Partner where appropriate. |

**Stage Three – Third Probation Review Meeting**

(usually happens by week 12 of employment)

* At this meeting conduct, performance, attendance and any action plan previously implemented at previous probation review meetings must be reviewed before a decision is made. An employee should bring examples of progress and achievements.
* At this review meeting there are three possible outcomes as detailed below:

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| **Stage Three – Third Probation Review Meeting** |
| **Options** | **Progress - Probationary Period ends** | **Extend probationary period with actions and remain at Stage Two** | **Unsatisfactory** |
| **Detail** | If the required standard of performance has been met and all statutory and mandatory training has been complete, the line manager can sign off the employee’s probation as satisfactory and confirm in writing. The employee must understand that performance will continue to be managedthrough existing peoplemanagement practices and policies. | If an employee’s performance is not deemed satisfactory and the previous actions set have not been achieved, themanager may decide to extend the probationary period. This would normally be for a maximum of 3 months.An action plan must be set.An employee should have aclear understanding of therequirements of the role,standards expected tocomplete their probation andthe next step should it not bemet.Consider support fromOccupational Health. | Unsatisfactory conduct,performance or attendance issues that have continued despite informal/formal discussions and remedialaction and supportive training. |
| **Manager’s Next Step** | Line manager writes tothe employee to confirm successful completion of the probationary period. | Arrange and repeat the second probation review meeting within 2 months | If it is determined that an employee has not passed their probation period and all reasonable support and adjustments have been exhausted, the employee’s contract of employment may be terminated.Advice must be sought from the HR Business Partner for all failed probation cases, prior to the final probation meeting with the employee and any outcome letter being issued.  |

**Outcome 1 - Probation Successfully Completed**

* At the end of the probationary period a review meeting should take place and a letter issued to confirm successful completion of the probationary period. A copy of the letter should be retained on the employee’s personal file.

**Outcome 2 - Unsatisfactory Probation**

* If it is determined that an employee has not passed their probation period and all reasonable support and adjustments have been exhausted, the employee’s contract of employment may be terminated.
* Employees should have been made aware of the concerns relating to standards of performance during the previous review meetings, to allow the employee opportunities to improve and request any additional support or training prior to the probationary period ending.
* Advice **must** be sought from the HR Business Partner for all failed probation cases, prior to the final probation meeting with the employee and any outcome letter being issued to ensure the reason for ending a probationary has been thoroughly considered.

 The following notice periods will be provided for all cases of failed probation:

* Band 1- 4: 1 month notice = 1 week probationary notice
* Band 5- 7: 2 months’ notice = 2 weeks probationary notice
* Band 8a to 8d: 3 months’ notice = 3 weeks probationary notice
* Band 9 : 6 months’ notice = 4 weeks probationary notice

**Outcome 3 – Extend Probationary Period**

* The Organisation reserves the right to extend an employee’s period of probation at its discretion. This will be limited to one extension and the total period of probation will be no longer than 6 months.
* Extensions to the probationary period may be considered only in exceptional circumstances, for example:
* Where a manager has been unable to make a fair assessment of the new starter’s performance, e.g. due to a period of absence from work by the new starter.
* Where reasonable adjustments need to be made to accommodate employees. It is important that the need for reasonable adjustments is identified and reviewed at each probationary meeting and a requirement to escalate if this cannot be met within the 12 weeks
* The new starter has demonstrated a degree of improvement in his/her performance which indicates that the required standards of performance could be achieved by an extension to the probationary period.
* Advice must be sought from the relevant HR Business Partner prior to making any decision to extend the probationary period. This is to ensure a consistent approach to managing extensions is taken across the Organisation.
* If at Step 3 a probation review period is extended, the review meeting can only have one of two possible outcomes (no further extensions are possible):
* Successful completion of the probation period and write to the employee to confirm
* Final Probation Review Meeting

# **10. Final Probation Review Meeting**

* A final probation review meeting is arranged when an employee has not demonstrated the required standard of conduct, performance and attendance to complete their period of probation.
* Potential reasons for escalating to a review hearing may include (but this list is not exhaustive):
* All reasonable support and remedial action has been exhausted and there is no improvement
* Failure to achieve an acceptable standard of the Organisation’s professional and leadership behaviors
* Failure to meet targets set and complete training to a satisfactory standard
* Inaccurate work completion and repetitive poor performance
* Failure to meet required standard of work, meet deadlines or complete tasks
* Not able to work effectively independently or as part of a team
* Attendance (persistence lateness, unsatisfactory sickness absence)
* Rudeness to patients, colleagues, visitors or poor relationships with colleagues
* Failure or unwillingness to follow the rules, regulations, reasonable instructions, policies and procedures of the Organisation
* Not adhering to local/departmental procedures or SOPS
* The line manager will prepare a written summary of the steps followed, action taken, support made available to the employee and why they believe the required standard has not been met.
* The final probation meeting must be in line with the scheme of delegation for dismissal hearings in the Disciplinary Policy (HR07).
* The employee should be given a minimum of 5 working days’ notice of the meeting to enable them to discuss the matter with, and arrange for appropriate representation at the meeting. The employee must be advised of their right to be represented by an accredited trade union representative or accompanied by a work colleague.
* The management case must be made available to the panel and the employee at least 5 working days prior to the meeting date. If the employee wishes to provide information to be reviewed by the panel this must be submitted to the panel Chair at least 3 working days before the meeting.
* At the meeting, the panel will decide on one of the following outcomes:

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| **Final Probation Meeting Outcomes** |
| **Options** | **Referral back to Stage Three – Extension of probationary period** | **Adjourn** | **Dismissal** |
| **Detail** | If the Chair of the panelbelieves there are minor actions that could have beenexplored in order for theemployee to achieve the required standards within ashort timeframe, then anextension of the probationaryperiod can be granted.An employee should have aclear understanding of whatthey are expected to dowithin a set timescale. | If the Chair requires additional information or advice, the review panel may beadjourned.The Chair should reconvene within a reasonable timeframe to conclude the hearing. | If the Chair reviews theinformation presented andconcludes that the conduct, performance or attendance is unsatisfactory, they will dismiss at the meeting |
| **Manager’s Next Step** | Chair writes to the employeewith the panel’s instructionsand sets a timescale when the panel will reconvene toreview progress. | Confirm a date to reconvene with the employee and their representative. | The Chair will write to the employee with the reason for dismissal and give the employee the right to appeal within 10 working days of receipt of the outcome letter. |

# **11. Probationary Review Appeal Hearing**

* If the employee feels that they have been unfairly dismissed as a result of the probation period, they have the right to appeal.
* Any appeal must be made in writing to the person specified in the notification letter within 10 working days of receipt of the letter confirming the decision. Any appeals received outside of this time frame may not be accepted. The appeal will be dealt with in accordance with the scheme of delegation for appeal against dismissals hearing in the Disciplinary Policy (HR07).

# **12. Deferral of the Probation Review Cycle**

* If an employee is absent during their period of probation it may be necessary (however not always) to temporarily defer the probation review cycle until they return to work. Although, dependent upon the length of absence and how much of the previous probation period had been completed, the manager may reduce the length of time to complete the probationary period if the employee is meeting the expected standards. Consideration will always be given to an individual’s circumstances. Additional advice can be obtained from your HR Business Partner.

# **13. Training**

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* Managers who hold line management responsibilities will receive training to ensure they are confident and competent to support and manage all new employees’ probationary periods. This will be bespoke dependent upon individual needs and delivered/assessed by the HR department.

# **14. Right to be accompanied**

* The employee has the right to be accompanied to any probationary review meeting by a work colleague or trade union representative where the termination of his/her employment is being contemplated. Should the companion be unable to attend on the chosen day, as long as it is reasonable and falls within five working days of the original date, an alternative date may be arranged.
* The Organisation reserves the right to hold a rearranged meeting if the employee or companion is still unable to attend. In these circumstances, the employee and his/her companion should be invited to submit a written submission to be considered at the meeting.

# **15.References/Associated Documentation**

* Chartered Institute of Personnel Development (CIPD)
* Advisory, Conciliation and Arbitration Service (ACAS)
* Employee Relations Act (ERA)
* Equality Act 2010
* Recruitment and Selection Policy, HR27
* Appraisal Policy, HR18
* Induction Policy, HR13
* Absence Management Policy, HR02
* Managing work performance, HR16
* Disciplinary policy, HR07

**Appendix 1: Equality Impact Assessment**

Equality Impact Assessments will be updated to include statistical data. Equality Impact Assessments will be updated and included in each Human Resource policy, as per the agreed 2022/23 HR EIA review schedule