



**Tasmania Prison Service**

Department of Justice

# Performance Management Policy and Framework

January 2014

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| Date authorised:                | 15 January 2014                               |
| Developed by:                   | TPS Policy Unit                               |
| Date of last review:            | November 2013                                 |
| Date for next review:           | November 2015                                 |
| This document replaces:         | Tasmania Prison Service Performance Appraisal |

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## Performance and Development Policy

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### Scope

This policy applies to all permanent employees and fixed-term employees engaged for a period greater than 6 months, within the Tasmania Prison Service (TPS) and operates in place of the Department of Justice Performance Management Strategy Policy and Framework.

### Purpose

The purpose of this policy is to ensure the Performance and Development system supports and maintains a culture of learning, innovation, leadership and accountability for outcomes. The policy will support the achievement of enhanced leadership and performance management across the TPS.

### Definitions

**Code of Conduct** encompasses the standards and values that individuals and organisations are expected to follow. In the case of the Department of Justice, section 9 of the *State Service Act 2000* states the standards required.

**Feedback** is providing information to another person about their performance or impact of their actions on a person, group or activity. Effective feedback is specific, timely and focuses on a specific behaviour.

**Goals** are objectives, targets, purposes, intentions and plans that both the manager/supervisor and the employee intend to achieve. To be most effective, they need to be specific and measurable.

**Performance and Development** is the system that supports a culture of ongoing improvement, feedback and development within the TPS workplace. The focus of Performance and Development is on personal improvement for effective performance.

**Performance Development Planning** is the process that enables the manager/supervisor and the employee to identify and confirm business and personal goals that are most significant to TPS' success.

**Performance Improvement Plan (PIP)** is designed to facilitate constructive discussion between staff member and his or her supervisor and to clarify the specific aspects of work performance to be improved. This is usually used when there are significant underperformance issues and a structured approach is required to address concerns.

**Performance Management** is the holistic process of creating a work environment or setting in which people are enabled to perform to the best of their abilities. It is not merely a focus on current performance but is a wider system that supports the employment cycle.

**Statement of duties** is the primary document that describes the detail of a staff position. It includes a clear and concise description of the role's focus, duties and responsibilities, along with the skills and knowledge required to undertake the role.

## Principles

The Performance and Development System is underpinned by the following key principles:

1. Effective performance is required of all employees regardless of role, responsibility or level.
2. Managers and employees are jointly responsible and accountable for working together to continually improve performance and achievement of outcomes.
3. Leadership is essential to creating the culture of professional improvement, feedback and development necessary to support effective performance management.
4. Participation in the Performance and Development process must enable every employee to understand TPS' values and strategic priorities and the way in which their role and performance outcomes contribute to achieving these.
5. Participation in the Performance and Development process must enable every employee to identify how they contribute to achieving outcomes at their level.
6. Underperformance must be actively addressed and managed through a structured, fair and transparent process.
7. All managers and employees are to be provided with appropriate training to enable them to participate in and fulfil their performance management responsibilities.

## Requirements

Every employee must have a Performance and Development Plan (PDP), which is to be developed jointly with their manager at least once per year. Every employee must be assessed against the performance requirements in their Plan at least once per year.

This policy must be read and applied in conjunction with the Performance and Development Procedure and the Managing Underperformance Procedure.

This policy does not apply to the management of alleged breaches of the Code of Conduct or alleged inability to effectively perform duties. These matters will continue to be managed in accordance with the *State Services Act 2000*.

## Associated documents

TPS Core Performance Framework

*State Service Act 2000* [incorporating the State Service Code of Conduct and State Service Principles]

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## Performance and Development Procedure

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### Scope

This policy applies to all permanent employees and fixed-term employees engaged for a period greater than 6 months, within the Tasmania Prison Service (TPS) and operates in place of the Department of Justice Performance Management Strategy Policy and Framework.

### Purpose

To detail the way in which the Performance and Development Policy is to be put into action; provide managers and employees with the required set of processes for effectively managing performance.

### Definitions

**Code of Conduct** encompasses the standards and values that individuals and organisations are expected to follow. In the case of the Department of Justice, section 9 of the *State Service Act 2000* states the standards required.

**Feedback** is providing information to another person about their performance or impact of their actions on a person, group or activity. Effective feedback is specific, timely and focuses on a specific behaviour.

**Goals** are objectives, targets, purposes, intentions and plans that both the manager/supervisor and the employee intend to achieve. To be most effective, they need to be specific and measurable.

**Performance and Development** is the system that supports a culture of ongoing improvement, feedback and development within the TPS workplace. The focus of Performance and Development is on personal improvement for effective performance.

**Performance Development Planning** is the process that enables the manager/supervisor and the employee to identify and confirm business and personal goals that are most significant to TPS' success.

**Performance Improvement Plan (PIP)** is designed to facilitate constructive discussion between staff member and his or her supervisor and to clarify the specific aspects of work performance to be improved. This is usually used when there are significant underperformance issues and a structured approach is required to address concerns.

**Performance Management** is the holistic process of creating a work environment or setting in which people are enabled to perform to the best of their abilities. It is not merely a focus on current performance but is a wider system that supports the employment cycle.

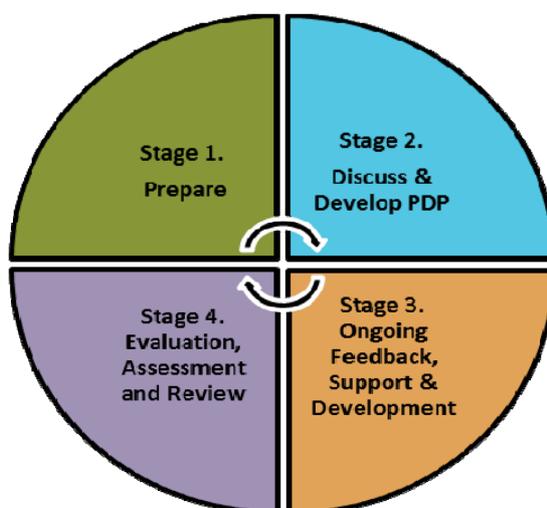
## Procedure Details

### Performance and Development Plan

Every employee must have a Performance and Development Plan (PDP) jointly developed and agreed with their manager. The PDP must be reviewed at least annually. The PDP is to be documented on the template provided.

### The Performance and Development Cycle

The diagram below represents the four key stages in the Performance and Development Cycle. Each department can determine the timing of this cycle, as long as the cycle is completed for each individual employee at least once per year.



### STAGE 1: Preparing for the Performance and Development Meeting

The employee must be provided with sufficient notice of the Performance and Development meeting to allow both parties to prepare for the discussion.

The manager is to ensure the employee understands what will be covered during the meeting, is familiar with the Performance and Development process and requirements, including the Performance and Development Plan (PDP) template.

The manager and employee are to agree on the nature of the preparation for the meeting, including the documents that will be referred to in preparing the Plan. Both the manager and employee are to ensure they are familiar with these documents prior to the meeting.

### Guidelines

The manager and employee are able to determine the approach they take to preparing for the meeting.

They may agree that the employee will undertake a form of self- assessment prior to the meeting, using the Statement of Duties.

They may agree that the employee completes a draft of the PDP before the meeting to inform the discussion.

The degree of self-assessment and preparation undertaken by the employee should be based upon consideration of their experience and confidence with the process, and their employment level.

Both the manager and employee should focus their preparation on identifying the priority areas for the employee to concentrate on for the next 12 months, including areas of performance where improvement and development are most relevant.

There are a range of reference documents which may be useful in preparing for the discussion including:

- the Performance Management Policy
- the Performance Management Procedures
- the employee's Statement of Duties
- the Core Performance Framework
- previous performance and development plans
- other business planning documents

## **STAGE 2: Discuss and Develop the PDP**

The employee and their manager must meet to formally discuss and develop the employee's PDP at least once per year. The development and documentation of the PDP must include the following elements:

### **(1) Goals/Objectives**

This section must clearly articulate agreed goals/objectives for performance and improvement that will be a priority for the employee to focus on achieving during the life of the PDP.

In deciding on the goals/objectives, the manager and employee are to take into consideration the key areas of priority that have been identified for the workplace, and which are relevant to the employee's role, responsibilities and duties, and professional standards. The goals/objectives should also be based upon the employee's statement of duties as well as identified areas of performance improvement for the employee.

### **(2) Actions**

This section of the PDP must identify the action the employee is to take to ensure they meet the identified goals/objectives, and deliver on the agreed outcomes.

This section is to include the major activities, tasks, projects and/or responsibilities the employee needs to undertake during the life of the PDP. The actions are to clearly relate to the identified goals/objectives, and must be realistic and achievable.

### **(3) Identified Development Need**

The manager and employee are to discuss and identify any skill gaps or development needs relating to the identified goals/objectives and actions.

Specific strategies are to be developed to address the identified development need. The type of professional development to be undertaken and the proposed timeframe must be documented in the PDP.

Development opportunities are to be negotiated to take into account the priorities and resources of the workplace, and to ensure appropriate balance for the needs of all employees within TPS. Development opportunities must be realistic and deliverable, and are to reflect the principle of collective responsibility for improvement.

#### **(4) Outcomes and Measures of Success**

The outcomes and measures will establish the way in which the employee and manager will assess whether the performance goals/objectives and standards have been met.

The PDP must identify the specific outcome that is expected to be delivered in association with each performance goal.

Agreed performance measures are to be identified for each identified goal. This will establish the way in which the employee and manager will assess whether the requirement has been met.

#### **(5) Core Performance Framework**

(Refer to the Core Performance Framework for further information on its use).

The manager and employee are to incorporate the elements of the Core Performance Framework into the employee's PDP. A joint understanding is to be reached as to how the employee is expected to demonstrate these requirements in the context of the actions identified in their Plan.

#### **(6) Code of Conduct and State Service Principles**

The development of the PDP must include discussion about the State Service Code of Conduct and State Service Principles, ensuring the employee is familiar with the Code and understands what is required of them.

### **Guidelines**

#### *General information for the manager:*

- Create an environment that demonstrates an opportunity for supportive two-way discussion.
- Review the purpose of the discussion.
- Ensure the employee has the opportunity to talk about what they think about their own performance.
- Review and summarise the major points and agreements.
- If there are points of disagreement, jointly devise a strategy to follow up on these.
- Make a date for next feedback discussion.

#### *Establishing the Goals/Objectives:*

- The aim of this section of the PDP is to ensure the employee has a clear understanding of the link between the goals and priorities of the workplace they work in, and their own role and responsibilities.
- It is recommended that goals/objectives are limited to identification of 4 or 5 key areas

#### *Establishing the Actions:*

- The actions should be expressed in clear unambiguous language to provide a mutually understood basis for future discussions about the employee's performance.
- A reasonable number of actions should be identified for each goal. This is a matter for negotiation between the manager and the employee.

#### *Identified Development Needs:*

- A general discussion should take place regarding current performance in line with the newly identified goals and actions. This will assist in identifying the learning needs which may need to be addressed in order for the employee to meet the expected goals over the assessment period.
- Strategies may include options such as on-the-job or formalised training, coaching, self-learning, specific developmental opportunities, projects, peer mentoring, cross-skilling etc.

#### *Establishing Outcomes and Measures of Success:*

- The identified performance outcome should relate directly to the performance goal and show how it will be achieved.
- Both parties need to agree on the type and source of evidence that will be relied upon in the performance assessment.
- The measurement may be quantifiable, i.e. it may be a deadline to be met, or a number of things to be completed.
- The measurement may be qualitative, i.e. it may be an activity that has to be done to a certain standard.
- Formal performance assessment will have the most validity when it is based on multiple sources of evidence.

### **STAGE 3: Ongoing Feedback, Support and Development**

Managers and employees are jointly responsible for ensuring the development and improvement strategies identified in the PDP, including professional development, are followed through.

During the period leading up to the evaluation, assessment and review, the manager must ensure opportunities are taken to provide regular feedback on progress against the goals, actions and outcomes documented in the PDP. This feedback, detailing the employee's progress, is to be recorded on the PDP.

Feedback is to be timely, frequent and focused on improvement. Managers must provide constructive and evidence based feedback. Feedback must be specific, based on examples and focus on the work requirements over which the employee can exercise control.

### **STAGE 4: Evaluation, Assessment and Review**

At least once per year the manager must evaluate the employee's performance against their PDP. In undertaking this assessment the manager must:

- Evaluate and assess the employee's performance against the PDP objectively and against the agreed performance measures and outcomes, and with reference to the *State Service Code of Conduct* and *State Service Principles*;

- Arrange a meeting with the employee to discuss the evaluation, providing sufficient notice to enable both parties to prepare;
- Provide the employee with clear feedback about their performance, and recognise achievements;
- Advise the employee of the assessment, and be clear about the basis and reasons for the assessment; and
- Document the reasons for the evaluation and assessment on the PDP template.

The assessment is to determine whether the employee:

*(A) Has achieved the required performance outcomes and standards*

An employee is to be assessed as has achieved the required performance outcomes and standards where they have met the requirements of their PDP and relevant standards/capabilities. Where this assessment is made, the manager and employee must jointly review and update the PDP to reflect the performance goals, actions, development needs, measures and outcomes for the next cycle. The employee then continues in the normal performance cycle.

*(B) Is progressing towards meeting required performance outcomes and standards*

An employee is to be assessed as progressing toward meeting required performance outcomes and standards where they have:

- achieved the majority of requirements of their PDP and relevant standards/capabilities, and
- will meet the remaining requirements within a reasonable timeframe, and with further support or development where required.

Where this assessment is made the manager and employee should revise the PDP to include appropriate support and development strategies and modify timeframes where necessary. Regular review meetings should be scheduled to monitor progress.

*(C) Has not achieved the required performance outcomes and standards.*

An employee is to be assessed as has not achieved the required performance outcomes and standards where they have not achieved the requirements of their PDP and relevant standards/capabilities despite having been provided with appropriate support and development. In cases where an employee is assessed as not meeting key performance requirements, standards or capabilities, the manager must consider appropriate action with reference to the underperformance procedures.

## **Confidentiality, Document Access and Document Storage**

The original signed PDP must be securely stored in the workplace. The manager of Performance and Absence Management is responsible for ensuring that the most recent PDP of each employee is stored securely with Organisation Development and that the last version is stored on the employee's file.

These documents ordinarily remain confidential between the manager and employee. Where necessary, the Director or delegate is to be granted access to any Performance and Development records of employees within the TPS.

Where an employee moves to a new facility/department within the TPS, the new manager is entitled to full access to the employee's current PDP. The previous manager is responsible for

providing the new manager with the PDP. The new manager is responsible for reviewing and updating that PDP as soon as possible to ensure it is relevant to the employee's new role.

Performance and Development documentation for an employee/former employee will not be released to another person (other than identified above), government department, selection panel or other person(s) without the consent of the employee/former employee, unless the information is required by law, including as an exhibit or evidence in legal or industrial proceedings.

All Performance and Development documentation must be managed in accordance with the privacy principles contained within the *Personal Information Protection Act 2004*. All Performance and Development documentation must be retained for a minimum of 2 years (in accordance with the *Archives Act 1983*).

## **Grievance Procedures**

If at any stage during the Performance and Development process either the employee or manager do not agree on the content of the PDP and cannot resolve the matter, either party can seek an independent review.

Initially an employee should make attempts to resolve any disagreement through discussion with their manager. Following this discussion, if either party remains dissatisfied, they can request an independent review.

An independent review will involve both the TPS Human Resources Manager and the relevant senior (next level) manager of the employee's area. In the event that the TPS Human Resource Manager is unavailable or the dispute arises within the HR department, assistance will be sought from a Department of Justice Human Resource Manager or delegate.

The review panel may seek written submissions or conduct interviews with both parties, documenting the reason for the dispute. The review panel is to assess the dispute, seeking further supporting evidence if necessary, and advise the parties of the outcome and reasons for their decision.

If this does not resolve the issue and either party remains dissatisfied, employees are to use the Department of Justice Grievance Resolution Policy and Guidelines. If the issue remains unresolved at the conclusion of this process, employees are to use the Grievances and Dispute Settling Procedure outlined in the relevant Award or Agreement covering their employment.

Other than termination of employment, an employee has rights to seek a review under Section 50(1)(b) of the *State Service Act 2000* with the Tasmanian Industrial Commission.

## **Training**

It is important that all staff understand the Performance Management policy and application of the performance and development process. Human Resources can conduct training programs for staff and managers/supervisors as necessary. Appendix A – Training Request Form of the PDP may be submitted to the Staff Development and Recruitment Unit where further development/training has been identified.

## **Quality Assurance**

Performance and Development documentation is subject to review to ensure quality assurance. Senior Manager's or their delegates are responsible for auditing a minimum of 25% of employee

PDP's in their area on an annual basis. The purpose of audits is the assurance of quality by ensuring that employees and managers are undertaking the Performance and Development process and completing PDP's correctly.

An internal audit plan is to be developed in advance to ensure that a minimum of 25% of employee PDP's are reviewed in a 12 month period. Further assistance can be located in the PDP Quality Assurance Record template.

In preparing to conduct audits, senior managers or their delegates should be familiar with the TPS Performance and Development policy and procedure. Contact with the manager of Performance and Absence Management should be made in advance in order to ensure access to documentation.

When reviewing documentation, ensure that all sections of the PDP have been completed (where applicable), dated and signed by both the employee and manager. Where planning, feedback or evaluation comments are to be provided, review whether sufficient information has been provided against the criteria contained within the Performance and Development Procedure.

Any areas of non-conformance or where improvement opportunities have been identified should be addressed with the manager responsible for completing the PDP.

Senior Managers / delegates are responsible for completing the PDP Quality Assurance Record template on an annual basis to record details of the audit process.

### **Associated Documents**

Performance and Development Policy

Performance and Development Plan Template

Performance Improvement Plan Template

PDP Quality Assurance Record Template

TPS Core Performance Framework

*State Service Act 2000* [incorporating the State Service Code of Conduct and State Service Principles]

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## Managing Underperformance Procedure

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### Scope

This policy applies to all permanent employees and fixed-term employees engaged for a period greater than 6 months, within the Tasmania Prison Service (TPS) and operates in place of the Department of Justice Performance Management Strategy Policy and Framework.

### Purpose

To enact the Performance and Development Policy; providing managers and employees with the required set of processes to effectively manage underperformance.

### Definitions

**Code of Conduct** encompasses the standards and values that individuals and organisations are expected to follow. In the case of the Department of Justice, section 9 of the *State Service Act 2000* states the standards required.

**Feedback** is providing information to another person about their performance or impact of their actions on a person, group or activity. Effective feedback is specific, timely and focuses on a specific behaviour.

**Performance Improvement Plan (PIP)** is designed to facilitate constructive discussion between staff member and his or her supervisor and to clarify the specific aspects of work performance to be improved. This is usually used when there are significant underperformance issues and a structured approach is required to address concerns.

**Performance Management** is the holistic process of creating a work environment or setting in which people are enabled to perform to the best of their abilities. It is not merely a focus on current performance but is a wider system that supports the employment cycle.

**Statement of duties** is the primary document that describes the detail of a staff position. It includes a clear and concise description of the role's focus, duties and responsibilities, along with the skills and knowledge required to undertake the role.

**Underperformance** means when an employee is not meeting the specific performance requirements identified in their Performance and Development Plan, or the general standards of performance and behaviour expected of an employee, despite having received reasonable support, development and training to enable them to perform effectively. Identification of underperformance and commencement of the process to manage the underperformance may occur either:

- as a result of a formal assessment of *has not met the standard required* in the employee's annual performance assessment, or
- during the course of the performance cycle, when a manager identifies an issue/issues of underperformance and despite reasonable efforts to address the underperformance informally, the underperformance continues.

While an underperformance process is underway, the employee ceases to be involved in the annual Performance and Development cycle. Where the underperformance issue is successfully resolved, the employee returns to the normal annual Performance and Development cycle.

## Principles

The following principles apply to the management of underperformance:

- Underperformance is not acceptable and employees are required to share responsibility for improving performance and to participate in the processes established in these procedures.
- Managers are to address instances of underperformance in a timely and appropriate manner, in accordance with these procedures.
- The primary goal of the underperformance process is to rectify underperformance issues and ensure the employee's future work performance is maintained at a satisfactory level.
- Underperformance is to be managed in accordance with the principles of natural justice and procedural fairness. This means that an employee has the right to be informed of the specific details of the underperformance issue, is entitled to be heard and must be given a reasonable opportunity to present their case.
- Employees and managers have a right to be treated fairly and without bias, and are to be informed of the reasons for a decision which affects them.
- Employees involved in the underperformance process must be provided with sufficient notice of any meetings.
- Employees involved in the underperformance process are entitled to support and/or representation at all stages of the process, and are to be advised of this right.
- Meetings and discussions must be conducted in an appropriate location having regard to privacy, confidentiality and provisions for people with disability.
- All matters arising during the process are to be kept in the strictest confidence.
- Records of all meetings and discussions are to be provided to the employee.
- Managers are to provide the employee with access to appropriate avenues of support throughout the process, including the Employee Assistance Program.
- The decision to terminate employment only occurs when it is evident performance will not improve and the employee has been given the opportunity and support to achieve effective performance.

## General Provisions

An employee will generally be required to remain working in their current position while an underperformance process is underway, unless the transfer to an alternative role or facility/department is part of a specific strategy to address the underperformance issue.

Where an alleged breach of the *Code of Conduct* occurs during the course of an underperformance process, the alleged breach is to be dealt with in accordance with the *State Services Act 2000* and managed separately to, and possibly concurrently with, the existing underperformance matter.

An underperformance process is to be suspended for periods of scheduled absence of the employee from the workplace, including during periods of pre-approved leave and illness. This must be factored into the timeframe of a Performance Improvement Plan. The underperformance process is to resume as soon as the period of absence is concluded.

## Procedure Details

### Stage 1: Early Intervention and Support

When an underperformance issue is initially identified the manager must address the issues promptly. The manager must document the discussions and outcomes [refer Management of Underperformance Template 1(a) "Record of Discussion" and 1(b) "Review Meeting"].

The Manager must ensure the employee is provided with reasonable opportunity and support to address the underperformance issue. In most cases it is expected that this early intervention and dedicated support for the employee will be sufficient in addressing underperformance.

Where this early intervention has not resolved the underperformance and/or the formal performance assessment has resulted in an assessment of *has not met the standard required*, the Manager is to seek advice from their next level Manager and the relevant HR representative on an appropriate course of action. Where advice is given to commence a more formal management of the underperformance issue, the matter is to proceed to Stage 2.

Where it is identified during the discussion that there are more serious issues impacting on the employee's performance e.g. a medical condition or issues of misconduct, the Manager is to seek advice from the relevant HR representative on the appropriate course of action.

### Stage 2: Performance Improvement Plan (PIP) Process

The process is outlined below in steps 1 – 6.

- (1) The Manager is to refer the matter through their Senior Manager or to the relevant Department Head. The Department Head is to make a recommendation to the HR Delegate for the appropriate course of action [refer to Management of Underperformance Template 2 "Consideration of Commencement of Formal Underperformance Process"].
- (2) The HR Delegate will then determine whether there is sufficient evidence to proceed with formal management of underperformance.
  - (a) Where the HR Delegate determines the evidence is insufficient to proceed with formal management of underperformance, they are to refer the matter back to the Manager to continue Stage 1.
  - (b) Where the HR Delegate determines there is sufficient evidence for a formal process to proceed, the HR Delegate is to refer the matter back to the Manager to develop a PIP with the employee.

The HR Delegate's decision to commence the PIP process is to be recorded on Management of Underperformance Template 2 "Consideration of Commencement of Formal Underperformance Process".

The Manager must formally advise the employee using Management of Underperformance Template 3 "Manager Advice to Employee Regarding Commencement of Formal Process". The advice is to include:

- notice that a formal process has commenced and that a PIP is to be developed;

- specific details of the underperformance issue to be addressed;
- details of the scheduled meeting;
- the employee's right to provide a response to the alleged underperformance in writing or at the scheduled meeting;
- the employee's rights to be supported or represented by a person of their choice throughout the process, and the requirement for them to advise in writing if they decline this offer; and
- A clear statement on the consequences if performance does not improve.

(3) The Manager and employee (and where applicable, support person) must meet to establish a PIP. During this meeting the employee must be provided with an opportunity to respond to the underperformance issue, to provide any supporting evidence or documentation or additional information regarding issues that may be impacting on their performance. The Manager is required to consider all information provided by the employee.

Where it is identified during the discussion that there are more serious issues impacting on the employee's performance e.g. a medical condition or issues of misconduct, the Manager is to seek advice from the relevant HR representative on the appropriate course of action.

The Manager, in consultation with the employee, must determine an appropriate timeframe for the PIP. The minimum period for a PIP is to be 4 weeks, and the maximum period is to be 12 weeks. In determining the PIP timeframe consideration is to be given to the following factors:

- reasonable time for support/development strategies to be implemented;
- reasonable time for employee to act on agreed outcomes and demonstrate sustained improved performance;
- the general expectation that performance will improve in a timely manner;
- the level of support and development already provided to the employee to address the underperformance issue; and
- availability of the employee over the full period of the PIP (taking into account any pre-approved absences).

The outcomes of the discussion must be documented on the PIP [refer to the TPS PIP Template] and must include:

- specification of the performance requirements that have not been met;
- the actions the employee is required to undertake to improve performance;
- details on the development and support that is to be provided to the employee to help them achieve the documented performance outcomes;
- the timeframe for achievement, milestones to be met and the frequency of monitoring; and
- details on how performance will be measured and the type of evidence to be used.

- (4) Interim Assessment: At the agreed intervals a review of the employee's performance including formal, documented feedback is to occur including the opportunity for the employee to respond.

Where the outcome of the first interim assessment is that performance has improved to a satisfactory level, the Manager may determine that the employee can resume the normal Performance and Development Cycle. The employee is to be advised of this outcome [refer to Management of Underperformance Template 6 "Advice to Employee of Outcome – return to Performance Management Cycle"], including notification that the improvement must be sustained or the matter may be referred back to the HR Delegate to consider an appropriate course of action.

Where the outcome of the first interim assessment is that performance has not improved, the Manager is to refer the matter back to the HR Delegate.

- (5) Establishment of PIP Panel – Where the HR Delegate agrees with the Interim Assessment that performance has not improved, they are to establish a Panel to manage the underperformance process in accordance with the PIP. The Panel is to comprise the Manager, their Senior Manager and the appropriate HR representative.

The HR Delegate decision and establishment of the Panel is to be recorded in Management of Underperformance Template 4 "Establishment of Panel following Interim Assessment". The employee must be formally advised of the establishment of the Panel using Management of Underperformance Template 5 "Advice to Employee following establishment of Panel". The advice is to include:

- notice that the PIP process is to continue;
- composition of the Panel ;
- details of a scheduled meeting with the Panel;
- the employee's right to provide a response to the interim assessment in writing or at the scheduled meeting;
- the employee's right to be supported or represented by a person of their choice throughout the process, and the requirement for them to advise in writing if they decline this offer; and
- a clear statement on the consequences if performance does not improve.

The Panel and employee must continue with regular scheduled interim assessments until the final assessment date. If the Panel determine at any interim assessment that performance has improved to a satisfactory level, the employee may resume the normal Performance and Development Cycle. The employee is to be advised of this outcome [via Management of Underperformance Template 6 "Advice to Employee of outcome – return to Performance Management Cycle"], including notification that the improvement must be sustained, or the Panel may be reconvened to consider an appropriate course of action.

- (6) Final Assessment: At the end of the agreed timeframes for the PIP a final assessment by the Panel should be undertaken.

Where the outcome of the assessment is that performance has improved to a satisfactory level, the Panel may determine that the employee can resume the normal Performance and Development Cycle. The employee is to be advised of this outcome

[via Management of Underperformance Template 6 "Advice to Employee of outcome – return to Performance Management Cycle"], including notification that the improvement must be sustained, or the Panel may be reconvened to consider an appropriate course of action.

Where the outcome of the assessment is that performance has not improved, the Panel is to evaluate the process and evidence gathered to determine the appropriate action. This evaluation should include a review of the measurement and assessment process along with any other relevant documentation to ensure the Panel's process was appropriate, fair, and reasonable. The Panel must then decide to:

- Option 1: extend the PIP timeframe to allow the employee further development and the opportunity to demonstrate improved performance. The employee must be advised of the reasons for the decision [refer Management of Underperformance Template 8 "Panel advice to Employee regarding Final Assessment"] and advise that the process will resume from Stage 2(e); or
- Option 2: refer all documentation to the HR delegate to determine appropriate action and advise the employee [refer Management of Underperformance Template 7 "Referral of PIP outcome to HR Delegate" and Template 8 "Panel advice to Employee regarding Final Assessment"].

### **Stage 3: Assessment by the HR Delegate**

The HR Delegate will determine whether the Panel's assessment is supported based upon the documentation and evidence supplied by the Panel.

Where the HR Delegate does not support the Panel's assessment, they are to either:

- (1) advise the Panel to review the PIP and resume the process from Stage 2(e) [refer Management of Underperformance Template 7 "Referral of PIP outcome to HR Delegate"]; or
- (2) convene a new Panel and resume the process from Stage 2(e) with the development of a new PIP [refer Management of Underperformance Template 7 "Referral of PIP outcome to HR Delegate"].

Where the HR Delegate supports the Panel's assessment, they are to refer all documentation to the Secretary for consideration of appropriate action [refer Management of Underperformance Template 7 "Referral of PIP outcome to HR Delegate"].

### **Stage 4: Decision by the Secretary**

The Secretary must determine the course of action based on all the documentation provided by the HR Delegate.

Where the Secretary does not accept the assessment of the Panel and HR Delegate, the Secretary is to appoint a new Panel and the process is to resume from Stage 2(e), with the development of a new PIP.

Where the Secretary accepts the assessment of the Panel and HR Delegate, the Secretary is to determine the appropriate outcome.

Where the outcome is other than termination, the Secretary is to refer the matter back to the HR Delegate who is responsible for implementing the action.

Where the outcome is that termination of employment, section 44(3)(ca) of the *State Service Act 2000* is to be considered and the following steps must occur:

- the Secretary must advise the employee in writing that a recommendation to the Minister (or the Minister's delegate) for termination of employment is being considered;
- the employee is to have a minimum of 14 days from the date of notice to provide a response;
- after 14 days the Secretary must review the employee's response (where provided) and determine the appropriate course of action;
- where the Secretary decides to recommend termination the employee must be advised in writing including the reasons for that recommendation;
- a recommendation to the Minister (or the Minister's delegate) to terminate under section 44(3)(ca) of the *State Service Act* is to be submitted through the Secretary, Department of Justice with all documented evidence relevant to the case;
- the Minister (or the Minister's delegate) will review the evidence and make a decision; and
- if the decision is to terminate the employee from the State Service, the Secretary must provide notice, reasons for the decision and advise the employee on their right of review/appeal.

### **Confidentiality, Document Access and Document Storage**

Documentation created during Stage 1 of this procedure is to remain confidential between the parties with a specified role in the process, as described in this procedure, and as necessary for the effective management of the underperformance. Records created during Stage 1 must be stored in a private and confidential manner with Organisation Development, and retained for a minimum of two years. The manager of Performance and Absence Management is responsible for ensuring that documentation is stored securely.

Documentation created during Stage 2 to 4 is to remain confidential between the parties with a specified role in the process, as described in this procedure. Once the process is complete, all documentation is to be retained on the employee's central records personal file.

Performance and Development documentation for an employee/former employee will not be released to any other person (other than those parties identified above), government department, selection Panel or other person(s) without the consent of the employee/former employee, unless the information is required by law including as an exhibit or evidence in legal or industrial proceedings.

All Performance and Development documentation must be managed in accordance with the privacy principles contained within the *Personal Information Protection Act 2004*. All performance management documentation must be retained for a minimum of two years (in accordance with the *Archives Act 1983*).

### **Grievance Procedures**

Initially an employee should make attempts to resolve any disagreement through discussion with their manager. Following this discussion, if the employee remains dissatisfied, they should discuss their concerns with their relevant senior manager. If this does not resolve the issue employees are to use the Department of Justice's Grievance Resolution Policy and Guidelines. If

the issue remains unresolved at the conclusion of this process, employees are to use the Grievances and Dispute Settling Procedure outlined in the relevant Award or Agreement covering their employment.

If the decision is taken that the employee's employment is terminated, any dispute will be dealt with by the appropriate industrial tribunal.

Other than termination of employment, the employee has rights to seek a review under Section 50(1)(b) of the *State Service Act 2000* with the Tasmanian Industrial Commission.

### **Associated Documents and Materials**

Performance and Development Policy

Performance and Development Plan Template

Performance Improvement Plan Template

TPS Core Performance Framework

*State Service Act 2000* [incorporating the State Service Code of Conduct and State Service Principles]

Template 1(a) Stage 1: Record of Discussion

Template 1(b) Stage 1: Record of Review Discussion

Template 2 Stage 2: Consideration of Commencement of Formal Underperformance Process

Template 3 Stage 2(b): Manager Advice to Employee regarding Commencement of Formal Process

Template 4 Stage 2(e): Establishment of Panel following Interim Assessment

Template 5 Stage 2(e): Advice to Employee following Establishment of Panel

Template 6 Stage 2: Advice to Employee of outcome – Return to Performance Management Cycle

Template 7 Stage 2 and 3: Referral of PIP Outcome to HR Delegate

Template 8 Stage 2(f): Panel Advice to Employee re: PIP Final Assessment