

## Probationary Period Policy No 28

### Introduction and Benefits

1. This policy details the use of probationary periods within the Trust and ensures consistent application and use for all involved in the process. Probationary periods are considered necessary to allow the Trust to review the performance of new members of staff and to ensure that any skills gap or training needs are identified and addressed.
2. The probationary period also allows the individual to become familiar with the culture and working environment of the Trust.

### Application

3. The policy applies to all staff with the exception of Medical Staff.
4. The policy does not apply to internal candidates within the Trust.
5. The purpose of this policy is to provide the Trust with a consistent process for managing probationary periods throughout the organisation for those designated staff groups. Probationary periods are considered important in managing a new individual in post and enabling a process for identifying training and development needs.

### Policy Statement

6. It is the policy of the Trust that those new starters with the exception of Medical Staff will attract a probationary period of six months.

### Responsibilities

7. Line Managers are responsible for implementing the policy and as such should:
  - 7.1.1. inform the individual about the probationary period at offer and ensure appointment paperwork clearly highlights the terms of the probationary period
  - 7.1.2. make the requirements of the job clear
  - 7.1.3. ensure that the member of staff has appropriate support
  - 7.1.4. assist the individual in identifying any training and development requirements for the new role

- 7.2. hold regular reviews with the individual to review progress during the probationary period
- 7.3. ensure that the individual has completed their induction programme
- 7.4. ensure that the correct processes are followed if employment is terminated during the probationary period

### **Monitoring and Review**

- 8. The policy will be monitored by the HR Committee, and formally reviewed by the HR Policy Group every three years.
- 9. The policy has been equality impact assessed to ensure that it does not result in unlawful discrimination and that it promotes equal opportunities and good relations between diverse groups within the organisation.
- 10. Equality data will be monitored for individuals on probationary periods in line with the HR monitoring process for performance and conduct, grievance and bullying and harassment.

### **Training and Development**

- 11. The principles of the policy will be incorporated into the HR Management Toolkit sessions.

### **Associated Documents and Policies**

- 12. This policy should be read in conjunction with the following documents:
  - 12.1. The probationary period guidance - Appendix 1
  - 12.2. Equality impact assessments - Appendix 2
  - 12.3. Induction Policy No 46
  - 12.4. Performance and Conduct Policy No 3.

## Probationary Period Guidance

### Introduction

1. It is essential that the line manager makes the terms of the probationary period clear at appointment stage in order for the candidate to make an informed choice about accepting the terms on offer. The line manager must also ensure that the probationary period clause is inserted into contract of employment (see Clause A at end of guidance).

### Process

2. Throughout the six month probationary period the line manager should carry out regular one-to-one meetings with the member of staff on a monthly basis, or more frequently if required. Meetings must cover the following:

- 2.1 Establishing and reviewing performance standards

- 2.2 Progress with induction and any mandatory training

- 2.3 Reviewing performance against objectives set

- 2.4 Setting objectives for the next month/remainder of the probationary period

- 2.5 Reviewing any training/support provided in the month

- 2.6 Any concerns of the employee

- 2.7 Any concerns of the line manager

3. It is vital that any issues or concerns are dealt with as they arise and that appropriate support is given to assist the new employee to attain the required level of performance. This may be through the provision of informal counselling, on the job support or formal training.
4. Performance Improvement Plans (PIP's) to address shortfalls in performance should be put in writing to the staff member, by the line manager to ensure both are clear about the outcomes required. A copy should be sent to HR for the individual's personal file. A suggested format can be found in Form A at the end of this guidance. Supervision notes may be used providing the issues are clearly identified. Where the level of underperformance is putting the employee's employment at risk, this should be clearly explained.

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5. If difficulties continue, despite corrective action being taken, advice should be sought from HR and consideration given to an extension of the probationary period or non-confirmation in post.

**Formal review meeting during month three**

6. The line manager must carry out a formal review during month three. This should measure performance against the KSF outline/job description/person specification and/or competencies and provide an opportunity for the line manager to clearly signal if there are shortfalls in performance that may jeopardise the employee's continued employment (Form A is an example of a review record). The manager should send the individual a letter confirming the meeting, copied to their HR Consultant. (Letter A).
7. There are three options at this stage:
  - 7.1 If performance is generally satisfactory, but more time is required to make a full assessment, the manager should continue with regular one-to-one meetings\supervisions until the final formal review. The employee should be made fully aware of the expected standards of performance and given adequate support to achieve them.
  - 7.2 If it is clear that performance is at\above the level required during the probationary period, the line manager can decide to confirm in post early by completing the actions outlined in Para 12.
  - 7.3 If the level of performance is below that required the line manager should discuss the options with their HR Consultant (Para 13).

**Final formal review meeting**

8. A final formal review meeting should be held with the employee before the end of month six, or the end of the extension period, and must always be held before moving onto non-confirmation in post.
9. The purpose of this is to review the probationary period and the individual's ability to perform the job. The manager should send the individual a letter confirming the meeting, copied to HR (Letter B).
10. If the employee's performance is satisfactory, the manager will inform the employee that they will be confirmed in post.

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11. In the case of unsatisfactory performance, the manager will reiterate the shortfall(s) in performance, and inform the employee that a meeting will be arranged to consider non-confirmation in post, i.e. dismissal on the grounds of capability (see Paras 26 - 44) at which the employee will have the right to be accompanied.

#### **Confirmation in Post**

12. A change form will be completed by the Line Manager, to confirm the employee in post and a confirmation letter will be sent to the individual (Letter C).

#### **Difficulties during the Probationary Period**

13. There may be occasions when the probationary period does not go smoothly for a number of reasons and these should be dealt with as follows:
- 13.1 Extended absence of employee, e.g. due to sickness absence or maternity leave - see Paras 15 - 18 Suspension of the Probationary Period for guidance.
  - 13.2 Underperformance of employee see Paras 18 - 25 Extension of the Probationary Period for guidance.
  - 13.3 Continued underperformance of employee- see Paras 26 - 44 Non confirmation in post for guidance.

#### **Suspension of the Probationary Period**

14. There may be situations where the employee will be absent for a prolonged period, e.g. sickness absence, maternity leave. It may be appropriate for the line manager to consider whether the probationary period should be suspended until the employee is able to return to work, at which point the probationary period will re-commence.
15. In the event of sickness absence, factors to be considered are the anticipated length of absence; the point that the absence occurred during the probationary period; the nature of the sickness; and the level of performance demonstrated up to the point of absence. Suspension of the probationary period should be confirmed in writing to the employee and a copy placed on their personal file (Letter D). Long term sickness should be dealt with as per the Trust's Absence Management Policy No 17.
16. In the event of maternity absence, the probationary period should be suspended until the individual returns to work.

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17. The process for managing the re-commenced probationary period will be as outlined above, with regular monthly meetings and formal review meetings. The length of absence will not count towards the length of the probationary period.

### **Extension of the Probationary Period**

18. An extension of the probationary period should be considered when shortfalls in performance have been identified, and the individual would benefit from some additional time to meet the relevant action plan and the required performance level.
19. The maximum period for an extension is five months and only one extension will be granted. A change form will be completed by the Line Manager to confirm the extension.
20. The line manager should discuss the appropriateness of an extension with HR in advance and then arrange to meet with the employee. At the meeting the manager should:
- 20.1 outline the areas of concern
  - 20.2 explore the reasons for underperformance
  - 20.3 explore possible solutions which could include further coaching or training
  - 20.4 confirm the period of extension
  - 20.5 inform the employee that if they do not reach the required level of performance their job will be at risk and they will not be confirmed in post.
  - 20.6 agree a performance improvement plan (PIP) with clear timescales for reviewing progress, which should be in writing (Form A)
21. The manager should confirm the extension period to the employee in writing, copied to HR (Letter E).
22. There is no right of appeal against a decision to extend the probationary period.
23. Throughout the extension period the line manager should continue to meet regularly with the employee to give feedback on performance, re-set objectives and provide additional support as required.
24. A final formal review meeting should be held just prior to the end of the extension period, as outlined above in Paras 8 - 11. If performance has reached the required level the process for confirmation in post should be followed.
25. Alternatively, where performance continues to fail to reach the standard required, the process for non-confirmation in post should be followed.

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**Non Confirmation in Post/ Dismissals**

26. The non-confirmation in post process is used where it is clearly demonstrated that the employee is not capable of carrying out their duties, despite further training/coaching and support being provided.
27. Non-confirmation in post dismissals can take place at any stage during the probationary period, as well as during the extension to the probationary period, but must be instigated before the end of the probationary period.
28. Prior to moving to non-confirmation in post at least one formal review meeting must have been held and the employee must have been made aware that their underperformance is jeopardising their continued employment.
29. A line manager considering non-confirmation in post should consult HR to talk through the issues and confirm that sufficient action has been taken to address the shortfalls in performance.

**Step 1 - Notification**

30. The line manager will set out in writing the employee's alleged failures as well as defining the expected and appropriate behaviour. The letter will also inform the employee of the arrangements for the meeting to consider their non-confirmation in post. (Letter F). Notice of five working days must be given to the employee.
31. The letter will also advise the employee of their right to be accompanied at the meeting by a trade union representative, or a colleague.

**Step 2 - Meeting**

32. The chair of the meeting should be the manager of the line manager involved in Step 1.
33. The meeting will consider the reasons for the underperformance and review the steps already taken to try and address the problem(s). The employee is able to bring witnesses and documents to support their case.
34. The meeting should be adjourned to allow the chair to consider the information provided by the employee and the possible outcomes. Possible outcomes of the meeting are:
  - 33.1 Extension of the probationary period where one has not already been in place and where the manager believes the shortfalls can be rectified with a period of further support (see Paras 18 - 25).

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33.2 Non-confirmation in post (dismissal), where the employee has continued to under-perform despite having had clearly identified objectives set and having received relevant training and support.

35. If the chair believes that the outcome of the meeting may lead to the potential dismissal of the employee they will need to ensure that a member of the HR team is present at the meeting to support the chair.
36. If following the meeting, the decision is not to confirm the employee in post (dismissal), the employee will be placed on special leave and notified that this period of paid leave will be included as part of the notice period. In cases of gross misconduct, the individual will be summarily dismissed without notice.
37. The chair will liaise with the relevant Director to ensure that the decision to dismiss is sanctioned as soon as is possible.
38. It is the responsibility of the chair to ensure that an outcome confirmation letter is sent to the employee within 48 hours of the meeting (Letter G), and that the appropriate payroll documentation is completed.

### **Step 3 - Appeal**

39. If the employee wishes to appeal against the outcome of Step 2, they must inform the chair present at the Step 2 meeting, in writing within 5 working days of receipt of the outcome letter.
40. An appeal meeting will be set up within 10 working days of receipt of the appeal request.
41. The employee has the right to bring a trade union representative or colleague with them.
42. The appeal meeting should be chaired by a manager of equivalent level to the chair in Step 2, supported by a HR Consultant. (This should not be the HR Consultant involved in Step 2)
43. In cases of dismissal, the appeal meeting should ideally be held prior to the termination date but this is not essential.
44. The manager hearing the appeal is responsible for ensuring that an outcome confirmation letter is sent to the employee within 48 hours of the meeting.

**Clause A - Probationary Period Contract Clause****Probationary Period**

The first six months of your employment will be on a trial basis and the Trust reserves the right to terminate your employment either during or at the end of that period on one week's written notice. The Trust reserves the right to extend the probationary period up to a maximum of five months. During your probationary period the Trust's Capability Procedures No 11 will not apply.



## SECTION A

Rating: 3 = exceeds standards 2 = meets standards 1 = below standards 0 = unacceptable

| Standard/Competence/Objective<br>(Refer to para 3 of guidelines)  | COMMENTS | RATING<br>0 - 3 |
|---|----------|-----------------|
| <b>TECHNICAL COMPETENCE</b><br>(e.g. experience and knowledge required to carry out job)  |          |                 |
| <b>SKILLS &amp; ABILITY</b><br>(e.g. ability to work to deadlines, ability to work without close supervision, prioritise, quality of work, pace of work, exercise of initiative, output, accuracy, PC skills etc) |          |                 |
| <b>COMMUNICATION SKILLS</b><br>(To include relationships with other staff, external contacts etc)   |          |                 |
| <b>MANAGERIAL SKILLS</b> [this section is for managers only]<br>(To include setting and implementing team objectives, managing staff and other resources, managing diversity)                                     |          |                 |

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Rating: 3 = exceeds standards 2 = meets standards 1 = below standards 0 = unacceptable

| Standard/Competence/Objective<br>(Refer to para 3 of guidelines) | COMMENTS | RATING<br>0 - 3 |
|--|----------|-----------------|
| ATTITUDE/MANNER/MOTIVATION                                       |          |                 |
| CONDUCT (include formal and informal warnings)                   |          |                 |
| TIMEKEEPING / ATTENDANCE RECORDS / SICKNESS                      |          |                 |

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**RECOMMENDATIONS - TO BE COMPLETED BY LINE MANAGER**

Please indicate as applicable:

I confirm that progress is satisfactory / not satisfactory (Complete Section B if not satisfactory)

**SECTION B - Performance Improvement Plan (PIP)**

**Detail areas of performance to be improved: (be specific, dates, examples)**

**Detail level of performance expected:**

**Specify any additional support, training or development agreed to improve performance:**

**Review meeting arranged for:**

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**CONFIRMATORY SIGNATURES:**

I have discussed my work performance with my Line Manager and have read and noted the contents of this report.

Employee's Signature ..... Date:

Line Manager's Signature ..... Date:

Copies to be given to: HR  Employee

**Letter A - Invite to First Formal Review Meeting**

Dear

**Re: First Formal Review Meeting – Probationary Period**

I am writing to invite you to attend a meeting on {date} at {time} am/pm at {location of meeting}, the purpose of which is to formally review your performance during the first three months of your probationary period. During the meeting I would like to discuss your performance and capability and to give you the opportunity to put forward your views.

If you require any further information on the meeting please contact (*name of HR link*).

I shall be grateful if you will sign and return the copy of this letter to me to acknowledge its receipt.

Yours sincerely,

**MANAGER**

Enc. Any appropriate documentation (and refer to in the letter)

cc **Human Resources**

**Please complete and return to your manager:**

**I acknowledge receipt of this letter confirming the first formal review of my probationary period**

**Signed: ..... Date: .....**

**Letter B - Invite to Final Formal Review Meeting**

Dear

**Re: Final Formal Review Meeting - Probationary Period**

I am writing to invite you to attend a meeting on {date} at {time} am/pm at {location of meeting}, the purpose of which is to hold a final formal review of your performance before your probationary period ends on XXXXX. During the meeting I would like to discuss your performance and capability/ my continuing concerns regarding your performance/capability and to give you the opportunity to put forward your views **(Delete as appropriate)**. The issues I wish to discuss are as follows: **(Detail the alleged failures as well as defining the expected and appropriate behaviour)**

This is a serious matter, and a failure on your part to provide a satisfactory explanation may result in your non-confirmation in post (dismissal). **(Delete as appropriate)**

**(Delete as appropriate)**

\* I enclose the following documents, which will be referred to in the course of the meeting:

.....

If you require any further information on the meeting please contact (*name of HR link*). I shall be grateful if you will sign and return the copy of this letter to me to acknowledge its receipt.

Yours sincerely,

**MANAGER**

Enc. Any appropriate documentation (and refer to in the letter)

cc **Human Resources**

**Please complete and return to your manager**

**I acknowledge receipt of this letter confirming the final formal review of my probationary periods.**

**Signed: ..... Date: .....**

**Letter C - Confirmation in Post**

Dear

**Re: Confirmation in post - (Job title)**

I am writing to confirm the outcome of our final formal review meeting on {date of hearing}. The purpose of the meeting was to review your capability/performance as your probationary period is due to end on XXXXX . Notes of the meeting are attached.

I have been pleased to confirm that from the review meetings we have had, and your continued levels of performance, I will be confirming you in post with effect from XXXXXX.

May I congratulate you on your successful probationary period and I look forward to working with you in the future.

Yours sincerely

**MANAGER**

**cc Human Resources**

**Letter D – Suspension of Probationary Period**

Dear

**Re: Temporary Suspension of Probationary Period**

I am writing to confirm that following our meeting on XXXXX I have agreed to suspend your probationary period for a period of XXXXXX.

The reason/s for this suspension are as follows:

This suspension is temporary and as such will be reviewed no later than XXXXX.

Yours sincerely

**MANAGER**

cc **Human Resources**

**Letter E - Extension of Probationary Period**

Dear

**Re: Extension of Probationary Period**

Following our meeting on XXXXX I write to confirm that your probationary period has been extended for a period of XXXXXXXX. Your probationary period is therefore due to end on the XXXXXXXX.

The reason/s for this extension are as follows:

We have agreed an action plan detailed in the attached review meeting form, which will hopefully help you to achieve the required levels of performance during this extension. You will only be granted one extension, therefore should you fail to reach this required level you risk not being confirmed into post at the end of your probationary period.

Yours sincerely

**Manager**

**cc Human Resources**

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**Letter F - Invite to Meeting to consider non - confirmation in post**

Dear

**Re: Formal meeting to consider non-confirmation in post - (Post title)**

I am writing to confirm that you are required to attend a meeting on {date} at {time} am/pm at {location of meeting}. The purpose of the meeting is to consider your non-confirmation in post.

Present at the meeting will be XXXXXX acting as Chair, supported by XXXXXX HR Consultant. The purpose of the meeting is to discuss my continuing concerns regarding your performance/capability and to give you the opportunity to put forward your views. The issues I wish to discuss are as follows: **(Detail the alleged failures as well as defining the expected and appropriate behaviour)**

This is a serious matter, and a failure on your part to provide a satisfactory explanation may result in your non-confirmation in post (dismissal). **(Delete as appropriate)**

**(Delete as appropriate)**

\* I enclose the following documents, which will be referred to in the course of the meeting:

\* The following witnesses will be called to give evidence at the meeting:

\* You may of course call witnesses to give evidence on your behalf. If you intend to call any then please inform me of their identities on the slip below.

You have the option of being represented by a Trade Union Representative or accompanied by a colleague if you so wish. If you require any further information on the meeting please contact (*name of HR link*).

I shall be grateful if you will sign and return the copy of this letter to me to acknowledge its receipt.

Yours sincerely,

**MANAGER**

Enc. Any appropriate documentation (and refer to in the letter)

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cc. Human Resources

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Please complete and return to your manager

I acknowledge receipt of this letter confirming the meeting arrangements to consider the non-confirmation of my probationary periods.

I will be bringing (name).....to the meeting with me.

I will be calling the following witnesses in support of my case:  
(names and job title)

Signed: ..... Date: .....

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**Letter G - Non Confirmation in Post/Dismissal**

Dear

**Re: Non-Confirmation in post/Dismissal**

I am writing to confirm the outcome of the meeting on {date of hearing}, the purpose of which was to discuss your line manager's continuing concerns about your capability/performance. Notes of the meeting are attached.

Unfortunately the information/evidence you provided was not sufficient to allay concerns with regards to your performance/capability. As a result (name of Chair) has provided me with a report which recommends that you are not confirmed in post. I have considered this report carefully and have endorsed their recommendations.

I must now inform you that you will not be confirmed in post as {job title}, on the grounds of capability/unacceptable performance.

I am therefore giving you one month's/week's notice of termination of your employment with the Oxford Radcliffe Hospitals NHS Trust. Your notice period commences today {date} and expires on {date}, which will be your last day of employment with the Trust. Please will you ensure that you return your ID badge and any Trust property to me on your last day.

You have the right of appeal against this decision which should be made in writing within 5 working days of receipt of this letter. This appeal letter should be addressed to (HR Consultant supporting Chair).

Yours sincerely

**Dismissing Director**

**cc: Human Resources**

