

DWP briefing

Department for Work & Pensions Group

To: Branch Secretaries, Additional Branch Contact, Regional Secretaries
and GEC



People Performance Mid-year Grievances 2015

Mid-year ratings and grievance procedure

The emphasis for dispute resolution under DWP People Performance Procedure and DWP Grievance Procedure is for issues to be resolved informally. However, in response to PCS concerns, that some managers have advised members that Mid-year Review rating disputes could *only* be resolved informally, DWP has issued additional guidance to Civil Service HR Casework (CSHR Casework) which confirms:

Whilst it is still our intention to encourage resolution between employees and managers without investigation, where employees insist upon Management Investigation of their mid-year performance ratings, these will be allowed. We definitely want to avoid spending more time discussing how a case should be handled than would be spent over a swift but properly conducted Management Investigation.

DWP recognises that for *mid-year performance reviews specifically...receiving a lower mid-year rating than the one expected, or potentially justified by performance evidence, is not trivial. Being rated 'Must Improve' potentially has consequences and will invariably be personally upsetting for the employee....*

Where local Managers have any difficulty understanding DWP Policy on this issue they should be advised to contact CSHR Casework. Cases not resolved through CSHR advice should be reported to PCS at the address below.

Discussion with manager

The aim of the performance management system is to encourage open and honest discussion between the employee and manager to deal with difficulties or disputes at an early stage so that they can be resolved along the way. Regular performance discussions throughout the year allow the employee and manager to discuss issues informally as they occur. The final end-of-year assessment should not come as a surprise to the employee.

The DWP Grievance Procedures are for use to resolve People Performance disagreements. All grievances should be resolved by *Employee Action* or *Manager Action* if it is possible to do so satisfactorily (Grievance Procedure 5.6). Where this is not possible, employees may raise their issue formally under the formal grievance procedures. It is best practice to try to resolve disagreements informally in the first instance and only resort to formal action as a last resort. However, the right to raise a formal grievance and appeal is available under People Performance Procedure 13.

Summary of grievance process

There is a procedural emphasis on informal action, under the *Employee Action* or *Manager Action* options where possible in the first instance, with a requirement for managers to engage constructively with employees. The grievance process is simply summarised under Grievance Procedure 5.3:

Employees are expected wherever possible to progress their issue using the Employee Action or Manager Action procedures. Managers are required to engage constructively with employees to ensure the Employee Action and Manager Action procedures are meaningful and effective.

However, the right to raise a formal grievance remains under 5.3 (supported by Grievance Advice Q&A 2) on the basis that: *Should the issue remain unresolved and, upon further reflection, the employee believes it is reasonable to do so, employees may have their grievance dealt with under the Management Investigation procedure.*

The employee may submit their case for Management Investigation on form G1 after a period of reflection but within 30 working days of the decision/event or issue taking place (Grievance Procedure 5.7).

Who is the Decision Maker?

Management Investigation for grievances related to performance ratings is normally for investigation by the manager who decided the rating. The manager responsible for considering a formal grievance must have the authority to over-turn the disputed decision when it is appropriate to do so. The DWP Policy Team additional guidance for grievances on end-of-year ratings also applies for Mid-year grievances which is that: *...the grievance decision maker will need briefly to consult either the countersigning manager or the validation chair (normally the same person) to check that any re-assessment is consistent with the standards of the peer group. In all cases the manager will need to explain their decision by referencing the standards. (See People Performance Myths busted, Myth 9)*

Right of Appeal

When dissatisfied with a Management Investigation decision, employees have ten working days from the date of receipt of the written decision in which to send their written appeal to the Appeal Manager (Grievance Procedure 7.5). The standards for decision making by Appeal Managers are under the *HR Decision Makers Guide* (paragraph 7.1). The appeal manager's role is not to reconsider the original case in detail but to focus on the employee's grounds of appeal and the issues cited in the appeal. Grounds for the Appeal Manager to uphold an appeal may include cases where it can be argued that:

- the decision was *arbitrary or capricious* – e.g. *not based upon logical reasoning*
- *original evidence has been misunderstood, or wholly or partially ignored or under- or overvalued, so that the previous decision was not soundly based*
- the decision was made on the basis of incorrect facts

Managers must award performance ratings based solely upon *achievement of objectives* (the 'What') and *demonstration of required behaviours, competencies and values* (the 'How') evaluated against the *agreed performance standards*. Nobody should have their rating changed simply to meet the guided distribution. Key issues for all disputes about a *Must Improve* rating will include the application of the criteria, under People Performance Procedures 9.6 and 9.7, for *Achieved & Must Improve* ratings. Is the rating a *proportionate response* based on a balanced consideration of the employee's personal performance over the entire period? Is the decision transparent, fair and reasonable?

Is your Mid-year Performance Rating fair?

Ratings must be awarded based on fact not opinion

Your Mid-year performance rating must be a fair, evidenced based evaluation of your personal performance based solely upon:

- *achievement of objectives* (the 'What') and
- *demonstration of required behaviours, competencies and values* (the 'How')
- evaluated against the agreed performance standards (*performance expectations* shared with you at the start of the performance year)

People Performance Advice Q&A 5 provides a list of what should be considered when assessing your performance rating. This includes confirmation that: *Performance ratings are awarded based on fact not opinion with each decision supported by objective examples of performance contained in the Performance Management*

Report. It is important to acknowledge and set aside any personal bias, conscious or unconscious, to ensure an objective appraisal. People Performance Procedure 9.3 confirms that ratings will not be changed or forced simply to fit the guided distribution.

Expectations must not be set too high

Standards for the *Achieved* rating must not be set too high. DWP defines the *Achieved* rating as a standard that **"encompasses the widest span of performance. At this level, performance could be verging on needing improvement or exceeding in some areas or generally satisfactory"** (People Performance Procedure 9.6). A *Must Improve* rating must meet the criteria under Procedure 9.7 which confirms: *The Must Improve rating includes employees whose performance requires improvement and those employees who are being managed under formal unsatisfactory performance procedures. This rating may also be appropriate for others whose performance has required improvement during the reporting period, where this is a **proportionate response**. Mid-year and end-of-year **ratings will always be based on a balanced consideration of the employee's personal performance** over the entire period and decisions must be transparent, fair and reasonable.*

Dispute unfair ratings

It is best practice to try to resolve disputes informally and only resort to formal action as a last resort. However, you can raise a formal grievance and appeal under People Performance Procedure 13 but you must put your case for *Management Investigation* on form G1 *within 30 working days* of the original decision (Grievance Procedure 5.7). You may contact your local PCS Representative for advice, support and representation.

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