Probation Policy

# Document Control:

| **Document Control Information** | **Details** |
| --- | --- |
| Policy Name | Probation Policy |
| Policy Number | MSEICB039 |
| Version | 1.0 |
| Status | Approved |
| Author / Lead | Senior HR Business Partner |
| Responsible Executive Director | Executive Chief People Officer |
| Date Ratified by Responsible Committee | 6 April 2022 |
| Date Approved by Board/Effective Date | 1 July 2022 |
| Next Review Date | 1 July 2024 |
| Target Audience | Refer to Scope in Policy |
| Stakeholders engaged in development of Policy (internal and external) | * Trade Unions |
| Impact Assessments Undertaken  *(Delete if non-applicable)* | * Equality and Health Inequalities Impact Assessment |

# Version History

| Version | Date | Author (Name and Title) | Summary of amendments made |
| --- | --- | --- | --- |
| 0.1 | Feb 2022 | Senior HR Business Partner | First draft ICB Policy |
| 0.2 | April 2022 | Viv Barnes, Governance Lead | Review of compliance with policy template |
| 0.1 | June 2022 | Senior HR Business Partner | Final draft for ICB approval |
| 1.0 | 9/8/2022 | Senior HR Business Partner | Final Review of Version 1.0 |
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## Introduction

The probationary period allows the line manager to assess objectively whether or not the new recruit is suitable for the role, taking into account the individual's overall capability, skills, performance and general conduct in relation to the job in question, during an agreed initial period in the post.

## Purpose

This policy gives the framework for the facilitation of the probationary period (the first 3 or 6 months in post, depending on duration of contract) and provides information regarding successful completion, and exceptionally, extension or non-confirmation in post.

## Scope

This policy will apply to all new employees ie on commencement of employment to the Integrated Care Board (ICB), including those employed on fixed term contracts and those with previous NHS service in another organisation.

This policy will not apply to:

* Employees transferred into the ICB via TUPE/COSOP
* Those currently employed by the ICB who have been appointed to a new or alternative job role.

## Definitions

* **Probation** – a process for establishing a new employee’s suitability for the role.

## Roles and Responsibilities

### Integrated Care Board

* + 1. The ICB Board is accountable and responsible for ensuring that the ICB has effective processes for the management of probation in accordance with relevant legislation and best practice guidance.

### Chief Executive

* + 1. The Chief Executive is accountable for the policy and procedure being in place to ensure fair and equitable approach to probation for employees.

### Policy Authors

* + 1. Policy authors are responsible for ensuring that this document is updated when any changes are made to legislation or best practice.

### Executive Chief People Officer

* + 1. The Executive Chief People Officer oversees the implementation of this policy and is responsible for ensuring that managers take action to meet the organisation’s obligations to ensure equity and consistency.

### Line Managers

* + 1. Line managers are responsible for:
* Setting the required performance standards and follow up any development needs that have been identified for the role.
* Ensuring that members of staff understand what is expected from them during their employment.
* Agreeing probationary review induction dates with the employee and to ensure that these reviews are undertaken, and the probationary assessment forms are completed.
* Creating and implementing an induction plan for the employee including regular supervision arrangements.
* Establishing clear objectives for the employee and to ensure that training and development opportunities are identified, planned and undertaken by the new recruit.
* Ensuring that copies of all related correspondence and records are kept and are accessible.
* Where necessary, to carry out a workplace assessment and ensure that any reasonable adjustments required at work are implemented in a timely manner.
* Seeking advice from the HR Team should the employee not be performing to the required standard.

### Employees

* + 1. Employees have a responsibility to:
* Perform to the best of their ability.
* Undertake any agreed induction, training and development activities and to implement learning from these activities.
* Raise training and development needs with the manager as early as possible.
* Identify whether they have a protected characteristic and whether additional support, training, equipment or adjustments are required.

## Principles

The probation period aims to give assistance and encouragement in adapting to the new job (e.g. duties, responsibilities, working environment, targets, standards required). At the start of the probationary period, clear work objectives will be set and expectations concerning performance in post, behaviour and general suitability will be explained.

Managers must take necessary supportive action at the earliest opportunity if the required standards of performance, conduct and attendance are not being achieved and to give a clear indication to the employee as to what support and guidance will be provided to enable them to meet the standards required.

Employees who do not meet the required standards after managers have exhausted all reasonable and practicable remedial action (eg. closer supervision, training, counselling etc.) will be dealt with using fair and efficient procedures.

By the end of the probationary period, the employee must demonstrate that they have met the required standards.

All new employees will be informed at the commencement of their probationary period that their employment may be terminated if they do not reach the required standards of performance which have been agreed.

This policy will not discriminate, either directly or indirectly, on the grounds of any of the protected characteristics, trade union membership or offending background. Managers will also need to ensure in discussion with the staff member and HR where required, reasonable adjustments at work are implemented in a timely manner.

During the probationary period, the ICB's disciplinary procedure; informal or formal Performance Management Procedure or the formal Sickness Absence Management Procedure will not apply. Any concerns or issues should be managed under this policy.

The ICB has the right to terminate the contract of an employee at any time during the probationary period. Employees whose contracts are terminated during the probationary period will be entitled to notice as outlined in this policy.

The length of contract with the ICB will determine the length of notice period during the probationary period:

| Length of Contract | Length of Probationary Period | Notice Period During Probationary Period\* \*\* |
| --- | --- | --- |
| 6 months or less | 1 month | 1 week |
| Over 6 months and under 12 months | 3 months | 1 week |
| 12 months or more | 6 months | 1 month |
| Permanent Contract | 6 months | I month |

\*Notice periods apply to the employee giving notice to the employer, and vice versa.

\*\*Reckonable NHS service does not count for purposes of giving notice and as such the commencement of statutory continuous service will be the date on which an employee commenced with the ICB.

## Process

### Manager’s Responsibilities

* + 1. During a new employee's probationary period, the line manager should follow a formal structured procedure that is aimed at assessing and reviewing the employee's performance, capability and suitability for the role. Both the objectives and the outcomes of this process should be documented and recorded on the ICB’s Probation Form, available on the intranet. [HR Forms](https://nhs.sharepoint.com/sites/99F_Connect/SitePages/HR-Forms-&-Documents.aspx)
    2. It will be the manager's responsibility to structure the probationary period in such a way that both parties are clear about what to expect.
    3. During the probationary period there should be:
* Regular monitoring of the new employee's performance through progress meetings – two formal reviews, plus regular 1:1’s.
* Assessment of the employee’s performance against the job description.
* identification and discussion of any problem areas at the earliest possible time.
* The provision of regular constructive feedback.
* Supervisory support and guidance.
* Provision of any necessary training and coaching.
  + 1. Initial setting of probationary objectives needs to be agreed with the new employee, the manager must input this onto the Probation Form within the first month of them commencing employment with the ICB.
    2. Once the new employee has commenced employment with the ICB, the manager will receive an e-mail from HR advising on probationary review dates. It is the manager’s responsibility to diarise these meetings ensuring that the formal review meetings are held in a timely manner in accordance with the timelines as set out in this policy
    3. Any concerns with an employee’s conduct or performance must be raised with them during the probationary period. Failure to do so will result in the employee automatically being confirmed in post at the end of their probationary period. It is important, therefore, that managers address any issues in a timely way during the probationary period and do not leave matters until the end of the process.
    4. The manager must highlight any serious concerns about work performance or behaviour without delay to HR. It may be necessary on occasion, to hold review meetings more quickly than the standard timescales indicate, and if there is considered to be a serious matter that requires immediate attention, a Final Formal Review Meeting may be convened early, to consider the matter and for termination of the contract to be implemented, as considered appropriate.

### Employee’s Responsibilities

* + 1. Employees need to ensure that they are clear on what is expected of them and that they have agreed and received a copy of the probationary plan.
    2. Employees are also responsible for completing any induction or mandatory training requirements, ensuring that they are familiar with the standards and requirements of the job role and for undertaking any learning and development activities agreed with the manager.
    3. Employees must raise any concerns about objectives set or their performance as soon as is reasonably practicable so that this can be addressed without delay.

### Disability

* + 1. Consideration must be given as to whether the employee’s capability or poor attendance is due to a disability and, if this is the case, what reasonable adjustments may be put in place to assist the employee in being able to reach the required standard of performance or attendance. Further specialist advice may be sought from Occupational Health and HR.

### Pregnancy/Gender Transition

* + 1. Should the employee have any pregnancy related absences or absences related to gender transitioning during the probationary period these should not be taken into account when considering any formal action against the employee. Probation may be paused in these instances; further guidance can be sought from HR.

## Procedure

### Implementation of Probationary Plan

* + 1. All new employees at the commencement of their probationary period will agree with their line manager, a probationary plan. The probationary plan will be structured to enable them to carry out their role effectively and work towards competent performance.
    2. The probationary plan needs to be agreed with the new employee, who must be clear on what is expected them. This information will include:
* Clear job outputs, i.e. what the new employee is expected to achieve during, or by the end of, the probationary period.
* The standards of performance that are required in respect of the job duties.
* The standards or measurements against which the employee's performance will be assessed.
* The details of Foundation Training (which is the Statutory, Mandatory and Essential Training that an individual needs as a new starter as well as any subsequent refresher training) that must be undertaken.
* Outline of evidence that may be needed to demonstrate competence at the review meetings.
* A description of any relevant standards of behaviour, for example in relation to liaison with clients and colleagues.

### Recording of Probation Plan

* + 1. All probation plans will be recorded onto the Probation Form and should be input within the first month of a new employee starting with the ICB.
    2. The Probation Form requires managers to enter an employee assignment number, and this will be provided via an e-mail from HR within the first month of the employee starting with the ICB.

### Review Meeting – Frequency

* + 1. Review meetings will be agreed in advance in accordance with the length of contract/probationary period as outlined in the table below:

| Length of Contract | Length of Probationary Period | First Formal Review Meeting | End of Probation Period (\*Final Formal Review Meeting to be held at least 2 weeks prior) |
| --- | --- | --- | --- |
| 6 months or less | 1 month | Week 2 | Week 4 |
| Over 6 months and under 12 months | 3 months | Month 1 | Month 3 |
| 12 months or more | 6 months | Month 3 | Month 6 |
| Permanent Contract | 6 months | Month 3 | Month 6 |

\* Please note that the final review meeting should ideally be held at least two weeks prior to the end of the probationary period. If it is not held before the end of the probationary period then the ICB cannot extend the probation further, and the individual will automatically (by default) be confirmed in post. For example, an employee’s probationary period ends on 30th June, the meeting must be held at least 2 weeks before that date.

* + 1. The employee may choose to be accompanied to formal review meetings by a colleague or trade union representative.
    2. All other review meetings will fall within the scope of normal management/employee meetings/supervision and therefore there is no right to representation at these meetings.

### Review Meeting - Content

* + 1. Topics to be discussed at the meeting will include:
* Review of actual performance including statistical information where appropriate, i.e. accuracy and output.
* Methods of improving this performance, i.e. training, coaching, mentoring etc.
* Any problem areas, including corrective action.
* Any issues regarding attendance and conduct.
* Performance targets to be set.

### First Formal Review Meeting

* + 1. The employee must be notified in writing of the date and time of the First Formal Review meeting.
    2. At least 5 working days’ notice should be given and the employee should be informed of the right to be accompanied by a colleague or Trade Union representative.
    3. Job performance, including attendance and conduct issues, and progress towards standards/objectives will be closely reviewed and managers will seek to establish whether the employee is making satisfactory progress in assuming the responsibilities of the job.
    4. Employees will be made aware of progress made, of any discrepancy between actual and expected performance and what improvement is expected. Standards, target/review dates and areas for improvement will be agreed, and where necessary the probationary plan will be amended. If necessary, employees should be advised that failure to improve performance within the required time scale will result in dismissal.
    5. Employees will be given the opportunity to discuss openly any difficulties they are experiencing, either on a work or personal level. Managers will offer advice, support and counselling where appropriate.
    6. Managers should record the outcome of the First Formal Review on the Probation Form. The managers and employee should all have their comments recorded. The employee should receive a copy of the review.
    7. This first meeting is also an ideal opportunity for managers to praise the individual’s progress - it is important to stress the positive aspects as much as possible throughout the review.

### Final Formal Review Meeting

* + 1. The Final Formal Review meeting must be held at least two weeks before the end of the probationary period. In extenuating circumstances, where it is anticipated that it will not be possible to hold the final review meeting before the end of the probationary period, an extension to the probationary period could be given. The circumstances and rationale for the extension must be explained to the individual and confirmed before the end of the probationary period. An extension cannot be given retrospectively once the end of the probationary period has passed. Circumstances such as these should be discussed with HR in time to enable appropriate notification to the employee.
    2. The employee must be notified in writing of the date and time of the Final Formal Review meeting. At least 5 working days’ notice should be given and the employee should be informed of the right to be accompanied by a colleague or Trade Union representative.
    3. This meeting will discuss job performance and, if the employee’s performance is satisfactory in all respects, the manager should communicate this fact. Any shortfalls in performance will have been highlighted before now and there should be no surprises at this review meeting.
    4. This meeting will have one of three outcomes:
* Make arrangements for employee to be confirmed in the established post.
* Termination of the contract; (this must have been discussed with an HR representative before the decision to terminate is taken and arrangements must be made for a manager with authority to dismiss to be present at the meeting and to consider the evidence presented by the manager and employee).
* Exceptionally, extend the probationary period.

### Successful Completion of Probationary Period

* + 1. Where an employee has met the requirements of the probationary plan and the manager does not consider that any further training or review is required, the employee will be confirmed in post. The manager must write to confirm this within 5 days of the final probationary review meeting.

### Voluntary Resignation during/at the end of the Probation

* + 1. The probationary period also serves as a period of time for the employee to determine if the role is right for them. Employees have the right to leave the employment of the ICB at any time including during the probation period if they feel they do not want to continue for any reason.
    2. In these circumstances, should an employee not wish to serve a notice period, HR should be contacted for advice.
    3. Should the employee fail to follow the absence reporting procedure and be absent and uncontactable during their probationary period this should, save in exceptional circumstances, lead to consideration of termination of employment.

### Extension of Probationary Period

* + 1. It may be appropriate to consider an extension to the probationary period to allow every opportunity for the employee to reach the required job performance. If this option is being considered, it should be discussed with HR prior to the employee being informed. Where an extension is made, this should be for no longer than three months, and a further Final Formal Review meeting should be arranged for a date prior to the expiry of the extended probationary period which will follow the format specified above.
    2. Any extension should be confirmed in writing within 5 working days.

### Termination of Contract during Probationary Period

* + 1. The appointment may be terminated by the ICB during the probationary period at any time by the giving of statutory notice or payment in lieu of notice. Reasons for termination may include the following (however this list is not exhaustive):
* Inability to maintain an acceptable attendance record.
* Failure to act in the best interests of the organisation.
* Failure to comply with organisational policies and procedures as directed by management.
* Performance in the role is not satisfactory e.g. employee fails to display the key attributes and competencies required in the role.
* If the employee fails consistently to deliver work against pre-agreed targets.
  + 1. Where the employee has failed to meet the required performance standards, and management have exhausted all reasonable and practical remedial action, the contract of employment will be terminated. The employee may be paid in lieu of notice and for any untaken accrued annual leave entitlement.
    2. Where a manager considers that the employee should not be confirmed in post and that termination of contract is the most appropriate course of action, arrangements must be made for a manager with authority to dismiss (see Scheme of Delegation) to be present at the meeting and to consider the evidence presented by the manager, and employee.   
         
       **Scheme of Delegation**

|  |  |
| --- | --- |
| **Stage** | **Responsible Manager** |
| Dismissal Hearings | Chaired by a manager at grade 8B or above plus one other manager (which may be a HR representative) |
| Appeal against dismissal | Chaired by a manager at Executive level or above plus one other manager and a HR representative |

* + 1. The employee must be notified in advance of the parties who will be present at this meeting and of their entitlement to representation by a Trade Union representative or colleague.
    2. The employee will receive written confirmation of the decision along with the reasons. This must be given within 5 working days. The employee will also be informed of their right to appeal against the decision. The appeal will be heard subsequent to the dismissal taking effect.
    3. There may be occasions where performance or behaviour is considered to be of such a serious nature, that it is required to escalate the matter to a Final Formal Review. In this situation, termination of contract may be facilitated within a quicker timescale than would normally ensue. The timescales and process for holding an earlier Final Formal Review meeting are as detailed above.

## Appeal

Any appeal against the decision to terminate the contract during the probationary period should be made in writing to the next level of manager (i.e. the line managers’ manager) within 5 days of the written confirmation of termination of contract.

The appeal letter should clearly state the grounds on which the employee is appealing.

Appeals will normally be held within 20 working days of receipt of the appeal by the superior manager. The individual will be given 5 working days’ notice of the date of the appeal meeting.

Both the individual and the line manager will be required to submit a statement of case, setting out the reasons for the termination and appeal. This should be submitted to the HR Representative (who will then share with the appeal panel) no later than 2 working days prior to the hearing date.

Should either party wish to call any witnesses in support of their case, they should make arrangements for these people to be available on the day of the hearing and should notify the HR Representative of the names of these no later than 2 working days prior to the hearing date.

Appeals will be heard by a manager with appropriate authority as outlined in the Scheme of Delegation. A representative from HR will be present at the appeal hearing. The individual will have the right to be accompanied by a Trade Union Representative or colleague.

Wherever possible the decision from the appeal panel will be communicated verbally to the appellant on the day of the hearing, however in some circumstances it may be necessary for the outcome to be given in writing. In this case, notification will be made within 7 working days.

The decision of the appeal hearing will be final.

## Monitoring Compliance

The HR Team will be responsible for monitoring that this procedure is followed and may be consulted at any stage through the process to offer advice to those involved.

Monitoring information will be published and reported as appropriate.

Should the monitoring uncover any shortfalls in the implementation of the policy, the HR team will work with the relevant management team to draw up an action plan for improvement. This action plan may include, for example:

* + Training for line managers.
  + A risk assessment.
  + It is also anticipated that any issues in respect of the implementation of the policy may be identified as a result of staff exercising their right of appeal.

## Staff Training

No essential (including mandatory) learning and development requirements have been identified for any staff groups, in order to fulfil the requirements stated within this policy.

Guidance can be sought from the Human Resources team.

## Arrangements for Review

This policy will be reviewed no less frequently than every two years. An earlier review will be carried out in the event of any relevant changes in legislation, national or local policy/guidance, organisational change or other circumstances which mean the policy needs to be reviewed.

If only minor changes are required, the sponsoring Committee has authority to make these changes without referral to the Integrated Care Board. If more significant or substantial changes are required, the policy will need to be ratified by the relevant committee before final approval by the Integrated Care Board.

## Associated Policies, Guidance and Documents

#### Associated Policies

* None.

## References

* None.

## Equality Impact Assessment

The EIA has identified no equality issues with this policy.

The EIA has been included as Appendix A.

## Appendix A - Equality Impact Assessment

**INITIAL INFORMATION**

|  |  |
| --- | --- |
| **Name of policy: Probation**    **Version number (if relevant): 1.0** | **Directorate/Service**: People Services |
| **Assessor’s Name and Job Title:**  Carolyn Druce, HR Business Partner | **Date:** 29th April 2022 |

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| **OUTCOMES** |
| *Briefly describe the aim of the policy and state the intended outcomes for staff* |
| This policy gives the framework for the facilitation of the probationary period (the first 3 or 6 months in post, depending on duration of contract) and provides information regarding successful completion, and exceptionally, extension or non-confirmation in post |
| **EVIDENCE** |
| *What data / information have you used to assess how this policy might impact on protected groups?* |
| The ICB monitors the composition of its workforce under the nine protected equality characteristics and reports on this annually. This information helps the ICB to assess the potential impact of its policies upon staff. |
| *Who have you consulted with to assess possible impact on protected groups? If you have not consulted other people, please explain why?* |
| Relevant Trade Unions have been consulted on the policy and any comments will be taken into consideration when the policy is published. |

**ANALYSIS OF IMPACT ON EQUALITY**

The Public Sector Equality Duty requires us to **eliminate** discrimination, **advance** equality of opportunity and **foster** good relations with protected groups. Consider how this policy / service will achieve these aims.

N.B. In some cases it is legal to treat people differently (objective justification).

* ***Positive outcome*** *– the policy/service eliminates discrimination, advances equality of opportunity and fosters good relations with protected groups*
* ***Negative outcome*** *–**protected group(s) could be disadvantaged or discriminated against*
* ***Neutral outcome***  *–**there is no effect currently on protected groups*

Please tick to show if outcome is likely to be positive, negative or neutral. Consider direct and indirect discrimination, harassment and victimisation.

| Protected  Group | Positive  outcome | Negative  outcome | Neutral  outcome | Reason(s) for outcome |
| --- | --- | --- | --- | --- |
| Age |  |  | √ |  |
| Disability  (Physical and Mental/Learning) | √ |  |  | Consideration must be given as to whether the employee’s capability or poor attendance is due to a disability and, if this is the case, what reasonable adjustments may be put in place. |
| Religion or belief |  |  | √ |  |
| Sex (Gender) |  |  | √ |  |
| Sexual  Orientation |  |  | √ |  |
| Transgender / Gender Reassignment | √ |  |  | The policy allows for absences due to gender transitioning to be taken into account re formal action and option for probation to be paused. |
| Race and ethnicity |  |  | √ |  |
| Pregnancy and maternity (including breastfeeding mothers) | √ |  |  | The policy allows for absences due to pregnancy to be taken into account re formal action and option for probation to be paused. |
| Marriage or Civil Partnership |  |  | √ |  |

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| **MONITORING OUTCOMES** |
| Monitoring is an ongoing process to check outcomes. It is different from a formal review which takes place at pre-agreed intervals. |
| *What methods will you use to monitor outcomes on protected groups?* |
| It is anticipated that any issues in respect of the implementation of the policy will be identified as a result of staff exercising their right of appeal. |

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| --- |
| **REVIEW** |
| *How often will you review this policy / service?* |
| Every 2 years as a minimum and earlier if there are any significant changes in legislation, policy or good practice. |
| *If a review process is not in place, what plans do you have to establish one?* |
| N/A |

## Appendix B – Union Representative or Work Colleague

Employees are entitled to be accompanied by a union representative or workplace colleague, at any/all formal meetings held under this Policy. It is the employee’s responsibility to make arrangements to be accompanied.

The employee must be informed of this right at the commencement and all subsequent stages of this procedure.

A workplace colleague must always be an employee of the ICB.

Reasonable time off should be afforded to the workplace colleague, in

discussion with their Line Manager.

The representative or workplace colleague may address the meeting and confer with the employee, during the meeting, put forward the employee’s case, summarise the employee’s case and/or respond on the employee’s behalf to any view expressed at the hearing.

The representative or workplace colleague may not answer questions on behalf of the employee or prevent the employee from explaining their case.

Any union representative or workplace colleague must maintain confidentiality during and after the application of this policy.

If the reason given for failing to attend a meeting is due to the non-availability of a trade union representative or workplace colleague and there have been no earlier adjournments in the process for this reason, on only one occasion the meeting will be postponed and a new meeting will be arranged within reasonable time; normally 5 working days. Exceptional circumstances will always be considered.