

# Probationary

**This document outlines the Scottish Prison Service Policy in relation to Employee Probation**

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**Unlocking Potential - Transforming Lives.**

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**Corporate Services, Human Resources**

**Policy Scope:**

**All Scottish Prison Service Employees**

**Links to Other Policies:**

**[Absence Management](#)**

**[Civil Service Management Code](#)**

**[Civil Service Recruitment Principles](#)**

**[Code of Conduct](#)**

**[Control and Restraint](#)**

**[Dignity at Work](#)**

**[Employee Wellbeing](#)**

**[Maternity and Parenting](#)**

**[Performance Improvement](#)**

**[Equality and Diversity](#)**

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## 1.0 Introduction

The Scottish Prison Service (SPS) operates a probationary period of one year for all new employees. The probationary period forms part of the contract of employment of all employees.

The probationary period is intended to allow the SPS to assess objectively whether or not the employee is suitable for the role for which they have been employed. The SPS is committed to supporting employees throughout their probationary period and believes that the use of probationary periods increases the likelihood that new employees will perform effectively in their employment.

This policy document provides a framework relating to the management of probationary employees. A probationary procedure [guidance document](#) is available offering further information on the implementation of this policy.

The terms of this policy constitute an updated collective agreement between SPS, the Trade Union Side (TUS) and the Prison Governor Association Scotland; and supersedes any previous policies or collective agreements in relation to probationary periods.

## 2.0 Aim

The aim of this policy is:

- To enable the probationary employee to gain a full understanding of the requirements of their role and the behavioural expectations of the SPS.
- To provide the SPS with an opportunity to assess the performance and future potential of the probationary employee before deciding whether or not to confirm their appointment.
- To help identify the training and development needs of a probationary employee and where necessary provide appropriate development activities to assist them in meeting the requirements of their role.
- To outline the procedure for managing employees during their probationary period in the SPS, including the arrangements for confirming or terminating employment during the probationary period.

## 3.0 Policy Statement

The SPS recognises that a supportive and developmental probation process is vital in providing the appropriate level of support and training for new employees on commencement of their employment.

This policy sets out the SPS's approach to probation for new employees, aiming to ensure fair, equal and consistent treatment of employees with regard to the probation period. All employees involved in this process are expected to behave in a manner which affords colleagues dignity and respect at all times.

All interactions relevant to the application of the policy will be treated with sensitivity, in confidence and in accordance with the Data Protection Act, and any formal actions relating to the policy will be recorded and communicated to employees in writing. Appropriate templates can be found on the staff intranet.

## 4.0 Scope

This policy relates to all new employees (including employees on part-time and fixed term contracts) whose contract of employment includes a probationary period.

Any existing employees who are promoted, re-graded or transferred within SPS will not normally be subject to a probationary period unless this has not been completed in their original role. In this case, the probationary period will be carried over to the new contract and their appointment will not be confirmed until the original period has been successfully completed.

Non-operational employees who have already passed their probation and who move to an operational role, which requires them to attend the Officer Foundation Programme, will not be placed on probation. However, they will be required to achieve satisfactory progress reports during the first two months of the new role which reflects adequate progress and/or competency against formal professional, occupational or vocational standards. In the case of existing employees, if performance standards are not met, the Performance Improvement Policy will apply.

## 5.0 Definitions

For simplification of this document the following terms and definitions apply:

- **Establishment** - The relevant local area, establishment or department area within the SPS.
- **Probation Period** - The probation period is 12 months in duration which is calculated from the first day of work under the contract of employment. This may be extended usually by a maximum of six months in appropriate circumstances to allow further time for improvement.
- **Probationary Employee** - This term refers to a newly appointed employee to the SPS subject to a probation period. This can be an operational or non-operational employee.
- **Line Manager** - The individual nominated to have supervisory responsibility over the probationary employee. This can include for example, a Training and Development Manager who may have responsibility for the employee for certain aspects of their probationary and induction period.
- **Senior Manager** - The Unit Manager or identified Head of Function with responsibility for overseeing the progress of the probationary employee.
- **Governor** - Governor in Charge of the local establishment, or Head of Function with responsibility for overseeing the progress of the probationary employee.
- **HR** - The local Human Resources representative or Business Partner within the establishment with responsibility for overseeing the management of the progress of the probationary employee.
- **Performance** - Refers to matters which could relate to conduct, behaviour or capability.
- **Development** - Refers to all the policies, practices, and procedures used to develop the knowledge, skills, and competency of employees to improve their effectiveness and efficiency.
- **Probationary Hearing** - Process to determine the appropriate course of action, when difficulties arise in the probationary period.

## 6.0 Roles and Responsibilities

### *Head of Human Resources*

- Has overall responsibility for the application and implementation of this policy within SPS.

### *Head of HR Central Services*

- Is responsible for ensuring that this policy is reviewed regularly and reflects current legislation, the requirements of the Civil Service Management Code and the Civil Service Recruitment Principles.

### *Line Manager*

Is responsible for:

- Establishing and communicating to the employee the required standards, responsibilities and objectives consistent with the requirements of their position.
- Ensuring the probationary employee is inducted locally and that records of induction activities are used to support the probationary review process.
- Holding regular one-to-one meetings with the probationary employee to provide feedback on their progress.
- Ensuring that probationary review meetings are conducted appropriately.
- Providing appropriate supervision to monitor progress or identify difficulties and provide opportunity for resolution or further development as required.
- Confirming whether or not the employee has completed their probationary period successfully at the final review meeting and recommending to the Second Line Manager and HR the outcome of the probationary period following an extension or where difficulties during the probationary period have arisen.

### *Probationary Employee*

Is responsible for:

- Demonstrating their suitability for the post for which they are appointed.
- Participating as required in their induction.
- Meeting any identified criteria or reasonable objectives within agreed timescales.

- Identifying to their Line Manager at the earliest opportunity any difficulties they are experiencing.
- Ensuring compliance with relevant SPS standards of conduct and behaviours.
- Raising with their Line Manager any development or support which they believe to be necessary in order for them to fulfil the requirements of their role, including any reasonable adjustments (see Section 7.2).

### **Second Line Manager**

Is responsible for:

- Supporting the Line Manager in managing the probationary employee by providing guidance and advice as and when requested.
- In conjunction with the Line Manager, making recommendations and confirming the probationary period outcome as part of the final probationary review.
- Requesting HR advice, when necessary, on matters related to the probationary period.

### **Governor/Head of Function**

Is responsible for:

- Ensuring that all employees are aware of and follow this policy and procedure.
- Liaising with the First Line Manager, Second Line Manager and HR regarding the progress of probationary employees.
- Confirming the appointment of probationary employees after receiving appropriate documentation from HR.
- Chairing any appeal hearing related to the potential termination of the probationary employee, with support from HR.

### **HR**

Is responsible for:

- Providing HR advice on the probationary period for all involved in the procedure.
- Advising on cases of unsatisfactory performance and, where appropriate, supporting Line Managers during formal meetings to address serious cases.
- Liaising with the Line Manager and Second Line Manager to confirm the probationary period outcome.
- Liaising with pay section and Governors to confirm the appointment of probationary employees.



- Supporting Governors in relation to any appeal hearing related to the potential termination of the probationary employee.

### **TU Representative / Workplace Colleague**

Where a probationary employee has the right to representation by a trade union representative or workplace colleague of their choice at a formal meeting under this policy, the representative can:

- address the hearing to put and sum up the employee's case,
- respond on behalf of the employee to any view expressed at the meeting and;
- confer with the employee during the hearing.

The representative cannot:

- answer questions on the employee's behalf;
- address the hearing if the employee does not want them to do so;
- use their powers in a way that prevents the employer, or any other person, at the hearing from making their contribution to it

## **7.0 Probation Procedure**

### **7.1 Induction**

All probationary employees will be provided with an appropriate induction into their role.

It should involve both the probationary employee and their Line Manager meeting as soon as possible after the employment has started (normally within the first week of employment).

An induction pack will be provided to the probationary employee that will outline local and organisational information including local partnership arrangements. The Line Manager should ensure that arrangements are made to provide the probationary employee with an opportunity to meet their local TU representative/s from their recognised union as part of their induction programme.

The Probationary Policy should be explained to the probationary employee by their Line Manager as part of their induction programme.

At the induction, the Line Manager should explain the responsibilities of the job, set objectives, and arrange for any necessary development to take place as required.

As part of the induction process, the Line Manager should detail the expectations of the SPS in relation to the attainment of formal professional, occupational or

vocational qualifications considered essential for their role and continued development.

## 7.2 Reasonable Adjustment Requirements

SPS has a duty to make "reasonable adjustments" to: any provision, criterion or practice, we apply; and to physical features of our premises. In doing so, we will accommodate the needs of our employees that have a disability, or physical or health condition, thereby ensuring they are not substantially disadvantaged when carrying out their job.

Where it is identified that a probationary employee may require a reasonable adjustment, the Line Manager will discuss this with the individual to seek their views on:

- how their disability, or physical or health condition affects their day to day activities;
- what, if any, adjustments in relation to the above might help them in performing their role;
- what, if any, adjustments may help to remove any substantial disadvantage.

It is recommended that the Line Manager speaks to the probationary employee face to face when discussing the requirements, as it is important to ensure that any reasonable adjustments are not based on assumptions or incorrect perceptions and are compliant with our Equality & Diversity Policies.

If required, further support can be provided from HR, who if necessary, can refer the case to Occupational Health for further guidance.

It may also, in some circumstances, be appropriate to ensure that reasonable adjustment requirements are communicated to other individuals involved in the induction process e.g. the SPS College. This should be done in full consultation with the probationary employee.

A note of any agreed adjustments should be retained on the probationary employee's career file held by HR.

## 7.3 Performance Management System

The Line Manager should explain the Performance Management policy to the probationary employee and how this will operate in conjunction with the probationary review period.

They should advise that the probationary employee will not be subject to the formal Performance Management policy, until such time as their probationary period is successfully completed.

It should be explained that for formal pay review purposes, pay increases are subject to satisfactory performance during the probationary period. If the employee has recently undergone a Probationary Review Meeting, with a satisfactory outcome, applicable pay increases will be awarded.

## 7.4 Probationary Review Meetings

The Line Manager will conduct four structured Probationary Review meetings with the probationary employee.

The Probationary Review meetings will normally be arranged to take place during months one, four, eight and ten of the probationary period.

This procedure is to be used in addition to normal supervisory arrangements and additional discussions and coaching meetings may also take place during the probationary period.

Probationary employees who are required to attend the Officer Foundation Programme (OFP) will have separate progress reports completed during the first two months of employment.

The purpose of the Probationary Review meeting is to provide feedback and support, with the aim of helping the probationary employee to successfully complete their probation period.

If concerns about performance arise at any stage in the probationary period then they should be brought to the attention of the probationary employee as soon as possible. This also includes failing to provide evidence of adequate progress and/or competency against formal professional, occupational or vocational qualifications without justifiable reason.

All Probationary Review meetings should be documented and sent to HR to be retained in the employee's career file, and a copy should also be provided to the probationary employee at each stage in the process.

At the end of the probationary period, one of the following outcomes will apply:-

- The appointment will be confirmed; or
- In exceptional circumstances the probationary period can be extended for a fixed period of time; or
- The employment will be terminated.

## 7.5 Completion of the Probationary Period

If the probationary period is completed successfully, the Line Manager will complete the necessary documentation at the ten month Probationary Review meeting and recommend to the Second Line Manager that employment should be confirmed.

The probationary employee should have the opportunity to include their comments with this prior to submission.

The probationary documentation will then be reviewed and signed off by the Second Line Manager and forwarded to HR who will liaise with the Governor. A letter confirming successful completion of probation will then be issued.

The Line Manager at the final review should advise the probationary employee that future performance will be reviewed through the Performance Management process and agree a date for initiating the Performance Review process.

## 7.6 Extension to Probationary Period

Extensions to the probationary period may be considered only in appropriate circumstances such as:

- The probationary employee has not performed to the expected standard but there is evidence that the performance is likely to improve given extra time.
- The probationary employee's attendance at work has not allowed an adequate assessment of the employee's performance i.e. sickness absence, maternity or some other justifiable reason.

The maximum period for extension would normally be no more than six months, and the purpose of such an extension is to allow the probationary employee more time to attain the required performance standards.

Where an extension to the probationary period is being considered, the Line Manager must make a recommendation to the Second Line Manager and HR, and if in agreement, a Probationary Hearing should be arranged with the employee. Prior to the hearing, the Line Manager, in conjunction with the Second Line Manager, should identify objectives and agree expectations for the individual.

During the meeting, these expectations will be explained to the individual and any support measures identified and agreed along with how and when this will be reviewed. The outcome of the hearing should be documented by the Line Manager and a copy provided to the employee.

At the end of the extended probationary period, the Line Manager will make an assessment of the probationary employee's suitability and send a report to the Second Line Manager.

If, at the end of the extended probationary period, the probationary employee's performance reaches the required standard, then the Line Manager will recommend to the Second Line Manager that the probationary employee should be confirmed in post.

However, if the probationary employee's performance does not reach the required standard then the Line Manager will recommend to the Second Line Manager that a further Probationary Hearing is convened to consider the employment relationship.

## 7.7 Reviewing the Employment Relationship

Where support has been provided and there is evidence to suggest that a probationary employee's performance is still consistently below the standard expected, it is possible to review the relationship at any stage in the probation period.

In this situation, the Line Manager should explain to the probationary employee that they have not reached the required standards and that they will be making a recommendation to the Second Line Manager that a Probationary Hearing should be convened to review the employment relationship, see Section 7.8 for possible outcomes.

The Line Manager will prepare a recommendation document outlining the evidence and the reasons to substantiate their decision. The probationary employee should have the opportunity to include their comments with this prior to submission.

The Second Line Manager will consider this information, review the processes undertaken to date, and consult with HR for a general advisory overview.

Where the recommendation is accepted, the probationary employee will be invited to attend a Probationary Hearing with the Second Line Manager, who will make a decision on the probationary period. See paragraph 7.8.

## 7.8 Probationary Hearing

When in possession of all the relevant information the Second Line Manager will write to the probationary employee inviting them to a Probationary Hearing.

The invitation will detail the circumstances which has led management to contemplate reviewing the continued employment of the probationary employee.

The invitation will include copies of all documentation and will also advise of the right to be represented at the meeting by a work colleague or a trade union representative. A representative from HR will also be present to give advice to management as appropriate.

The probationary employee will normally be given a minimum of 5 working days' notice of this meeting to allow for preparation. The Probationary Hearing should be convened as soon as is reasonably practicable and the probationary employee must take all reasonable steps to attend. Additionally, the invitation will offer the probationary employee the opportunity to present any written material they believe to be relevant for consideration.

At the Probationary Hearing, the Second Line Manager will explain the employment concerns and will consider all aspects of these as well as any mitigating factors raised by the probationary employee. The Probationary Hearing may be adjourned to further investigate or consider any matter that has been raised.

On conclusion of the hearing, the Second Line Manager should adjourn to consider all of the evidence presented. Once a decision has been made, the probationary employee should be notified of this verbally on the day of the Probationary Hearing, where possible, and in writing within 5 working days of the Probationary Hearing.

Following the meeting, one of the following outcomes will apply:

- The probationary period will continue without an extension period
- The appointment may be confirmed
- The probationary period may be extended for a fixed period of time
- The employment will be terminated

The probationary employee will have the right to appeal a decision to terminate employment to the Governor.

## 7.9 Appeal

In cases where the probationary employee's contract has been terminated, they will be informed of their right to appeal the decision to the Governor. The intention to appeal against the Second Line Manager's decision must be provided in writing to HR within 5 working days of receipt of the decision to dismiss.

Appeals will be heard by the Governor who has not had any involvement with the decision to dismiss, and whose decision will be final. A representative from HR will also be present to give advice as appropriate.

The appeal meeting should be convened as soon as reasonably practicable given all the circumstances of the case.

The probationary employee will normally attend the appeal meeting, although the appeal may be reviewed in their absence. The probationary employee may be represented at the appeal meeting by a trade union representative or a workplace colleague.

The Governor will address the grounds of appeal and the probationary employee may be afforded a fair opportunity to state their case. The appeal meeting may be adjourned to further investigate or consider any matter raised.

At the conclusion of the appeal meeting, the Governor should adjourn to reach their decision in light of all the matters raised. The outcome of the appeal meeting will be confirmed verbally on the day, where possible, and in writing to the probationary employee within 5 working days of the appeal meeting.

There are three possible outcomes available, these are:

- The appointment will be confirmed; or
- In exceptional circumstances, the probationary period can be extended for a fixed period of time; or
- The decision to terminate employment will be upheld.

The decision of this appeal is final and there is no further right of appeal.

## 7.10 Notice

The notice arrangements in relation to probationary employees are detailed in the statement of terms and conditions of employment.

## 7.11 Conduct and Behaviour

Where the conduct or behaviour of a probationary employee is considered unacceptable by the Line Manager or alternatively by management at SPS College for those undertaking the Officer Foundation Programme, this should be highlighted initially to the probationary employee and followed up with a meeting to discuss the matter further. It may be appropriate in these circumstances for the Line Manager or alternative at SPS College to liaise with the Second Line Manager and HR at their establishment, prior to any meeting.

The probationary employee should be afforded the right to be accompanied at this meeting by a trade union representative or a workplace colleague.

The Line Manager should explain to the probationary employee what behaviour/conduct was unacceptable and why, clearly outline what the expected levels of behaviour/conduct are, and monitor this as part of the probationary period. This meeting should be noted on the [Probationary Review form](#) and the matter should then be followed up at the next Probationary Review meeting or any agreed additional meetings as appropriate.

In some instances, where conduct or behaviour during probation has fallen below acceptable levels and may constitute serious or gross misconduct, a Probationary Hearing may be held before the end of the probationary period to review the employment relationship.

Prior to any action being taken, an investigation will be conducted to establish the circumstances. In most cases, this will be undertaken by the Line Manager, or where appropriate, an independent investigating officer. Where this occurs at the SPS College, it may be appropriate for the College to identify an investigating officer to conduct fact-finding interviews, whilst liaising with the home establishment.

Where there is a case to answer, a Probationary Hearing will be arranged. The probationary employee is entitled to be accompanied at this hearing by a trade union representative or a workplace colleague.

The outcome of such a hearing could be the issuing of an extension to the probationary period, or termination of employment. Refer to Section 7.10 for notice arrangements.

## 8.0 Pay Increases on Successful Completion of Probation

Information relating to probationary employees' pay is held in the 'Pay Manual for the Main Staff Group' and can be accessed on My SPS through the links for [Pay and Pensions](#) and the [Performance Management policy](#).

## 9.0 Managing Attendance during the Probationary Period

During the probationary period, all aspects of attendance/absence at work will be closely monitored.

The Attendance Management policy will be applied to probationary employees, insofar as return to work meetings, managing absence interviews and capability are concerned.

In order to manage the attendance of probationary employees effectively within the probationary period, not all provisions of the Attendance Management policy are applicable. In particular, attendance could be considered unacceptable where a probationary employee incurs an Attendance Debit Score of 50 or above in relation to any absence period.

During the probationary period, underlying factors may emerge that affect performance, which may require additional support, action or adjustment. Where this relates to a disability, physical or health condition, the Line Manager, with the employee's permission, should seek specialist advice from SPS Occupational Health providers via HR to ascertain whether or not it is practicable to make reasonable adjustments to accommodate the probationary employee in their current job role.



## 10.0 Health and Wellbeing

SPS currently provides lifestyle screening as part of its commitment to promoting employee Health and Wellbeing.

All probationary employees will be required to attend a personal, medical, confidential health interview and assessment conducted by SPS' Occupational Health providers, as part of the SPS lifestyle screening programme.

## 11.0 Maternity and Parenting

Probationary employees taking maternity or other forms of leave associated with parenting should refer to the [SPS Maternity and Parenting policy](#). Probationary employees will be given the same entitlement as all other employees where they meet the required eligibility criteria.

## 12.0 Control and Restraint/Self Defence Competency

On completion of the OFP, operational probationary employees will normally have achieved competency in Control and Restraint (C&R) Phase 1 prior to returning to their establishment. If the competency is not achieved during the OFP, the areas that require further tuition and practice on return to the establishment will be recorded in the college report and a recovery plan put in place by the establishment. Competency must be evidenced annually.

All non-operational employees who have regular/un-escorted routine prisoner contact may be required to evidence Personal Protection Training (PPT) competency within 2 months of commencement of employment, where reasonable and practicable. Thereafter, competency must be evidenced in accordance with SPS policy, as amended from time to time.

## Further Information:

The SPS recognises that from time to time employees may have questions or concerns relating to Probation. In certain situations employees' rights and obligations regarding Probation may change. In these circumstances the SPS will abide by any statutory obligations.

The SPS wishes to encourage open discussion with employees to ensure that questions and problems can be resolved as quickly as possible. Employees are encouraged to seek clarification on any issues with the appropriate Line Manager in the first instance.

## Sustainability

Improving our environmental performance and doing things in a more sustainable way should be seen as integral to our core business practices.

In line with the SPS Sustainable Policy and to demonstrate compliance with the Scottish Government's commitment to improving environmental and sustainable development performance, please be mindful if printing this document – keeping paper usage to a minimum (print only version), printing on both sides, and recycling.

## Equality Statement

The SPS is an equal opportunities employer where all employees are treated with dignity and respect. We are fully committed to equality, diversity and human rights and to ensuring our culture, working environment, policies, processes and practices are free from bias. This policy applies to all employees regardless of protected characteristics, and, subject to any eligibility criteria, length of service, grade, working pattern or operational status.

## Inclusive Communications

It is our ambition to ensure that SPS documents are readable, accessible and engaging for employees.

In formatting this document, good practice principles around engagement and inclusive communications have been adhered to.

If you require this document in an alternative format please contact Human Resources.

## Review and Monitoring

This policy will be reviewed every three years or sooner where applicable to reflect changing business and legislative requirements.

## Human Resources Policy and Guidance in SPS

SPS policies take into account current legislation, rules, regulations and best practice guidance from a range of professional and public bodies, including the following:



UK Civil  
Service  
Management  
Code



UK Legislation



EU  
Legislation



ACAS



CIPD Best  
Practice