

30 October 2019

Bridget Morison

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Dear Bridget

Your Official Information Act request, reference: GOV-002073

Thank you for your email of 10 October 2019, asking for the following information under the Official Information Act 1982 (the Act):

An updated copy of the "Guidelines for Performance Management of ACC Providers"

Updated copy of Guidelines

Please find attached a copy of the "EPM Performance Management Guidelines - March 2018". This document is generic and applies to all contracted providers including mental health providers.

Also, available on ACC's website is the "Integrated Services for Sensitive Claims (ISSC) Operational Guidelines" and "ACC's Standard Terms and Conditions", which includes how ACC manage performance and relationships with providers. These documents can be found via www.acc.co.nz under Resources.

Any queries

If you have any questions, you can email me at GovernmentServices@acc.co.nz.

Yours sincerely



Emma Coats

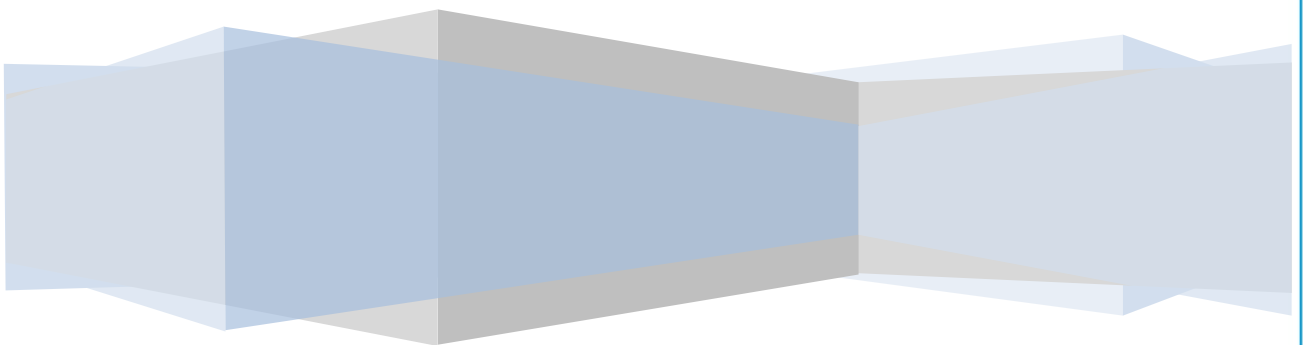
Manager Official Information Act Services
Government Engagement & Support



EPM Performance Management Guidelines

A Guide for the Management of ACC
Contracted Suppliers by Engagement
and Performance Managers

Haydn Gwilliam



Contents

Scope of the Performance Management Guide..... 2

 Who does the Guide apply to 2

 How should this Guide be used 2

Performance Management Principles 2

 Effective Supplier Performance Monitoring and Management involve:..... 3

 Performance Management Principles:..... 3

Working with Challenging Suppliers 4

 Challenging Suppliers..... 4

 Holding Performance Discussions or Managing a Performance Improvement Process 5

 Before the Conversation 5

 The Performance Conversation 5

 Performance Management Guidance 8

 Performance Management Examples..... 11

Scope of the Performance Management Guide

Accident Compensation Corporation (ACC) operates in a dynamic commercial and technical environment. Effective procurement planning, management and monitoring of Supplier Performance is critical to controlling both the risks and costs involved in Procurement, the management of Supplier Relationships and achievement of intended contracted outcomes.

This Guide has been developed to provide information on Performance Management related to post-award activities of Supplier management for Engagement and Performance Managers, i.e. once a Contract has been established through a Strategic Sourcing process.

Given the dynamic and complex nature of Performance Management, this document should be read as guidance only; it should not be interpreted as a script.

Who does the Guide apply to

This Guide is for Engagement and Performance Managers' (EPMs') management of Contracted Suppliers. It does not apply to non-contracted or regulated PSD providers.

How should this Guide be used

This Guide should be read in conjunction with the following documentation:

- The relevant Supplier's Contract
- ACC's Procurement Policy <http://thesauce/resources-and-tools/policy-legislation/corporate-policies-a-z/procurement/index.htm>
- ACC's Provider Management Framework <http://thesauce/resources-and-tools/methodologies-lifecycles/procurement/manage-providers/provider-management-framework/index.htm>
- ACC's Classification Tool for Providers, Suppliers and Third parties <http://thesauce/resources-and-tools/methodologies-lifecycles/procurement/manage-providers/provider-management-framework/index.htm>

Performance Management Principles

Supplier Performance monitoring is a fundamental aspect of good Contract Management that ensures the actual service received is in accordance with agreed service standards and prices as defined within the Contract. This is a fundamental element for delivering and managing the expected value from any Contract.

The ability to measure the Performance of a Contract and provide effective feedback is critical to a successful Supplier Management process and a Supplier's development during any Contract lifecycle.

The Performance landscape for Suppliers should be viewed and managed holistically and **all aspects** of Supplier activity be taken into consideration when making assessments or judgements on Performance. It should not be limited to Performance Measures alone as these can be poor indicators of Performance if they are not aligned to the contract deliverables or intended outcomes.

Effective Supplier Performance Monitoring and Management involve:

- Regular forum(s) to discuss the Supplier's Performance and obligations on both parties
- Regular checks that a Supplier's Performance is meeting agreed standards and contractual obligations
- Regular checks that the supplied goods or services meet the required specification(s)
- Checks to ensure Contract conditions and clauses are being delivered or adhered to
- Non-compliance and Breaches of Contract to be acted upon and addressed quickly
- Advice to the Supplier on any aspects of Performance that fall short of expectations
- Timely action on issues or problems as they arise
- Systems and processes that capture and consider Stakeholder feedback
- Having accessible records of Supplier engagement and access to good data/reporting on Supplier Performance to inform decisions and discussions
- Regular inspections or reviews of compliance to applicable Legislation and Contract conditions, Quality provisions, Health and Safety etc. are carried out (this can include external Audit or Review by a third party).

It is generally accepted that Performance Measurement can be an expensive and time-consuming activity, and as such should be carried out on a selective and prioritised basis, proportionate to the value and importance of the Contract to ACC. This is particularly important when time and resources are limited.

In line with the requirements detailed within the ACC Provider Management Framework contracts of high value or high risk (Tier one) should be closely monitored, involving regular meetings / reports and review. Information from these engagements should be made available to key Stakeholders on a regular and cyclic basis to ensure transparency/visibility on Performance and service delivery.

It is important to remember that ACC's clients should be at the centre of "what we do" so effective Performance Management should keep this in mind and seek the best outcome for ACC, our clients and Suppliers.

Performance Management Principles:

- Be honest and open – good Performance Management relies on good relationships
- Be transparent – communicate in an open, clear manner
- Keep it simple – keep the emphasis on development and Performance, and keep the paper work and process simple
- Keep in touch – use mini-reviews or engagements (monthly meetings or calls) to build towards a Performance Review or discussion
- Let Suppliers know how they are doing – give regular, timely feedback, either motivational, formative, or both

- Get the right tools for the job – make sure that the resources (including people i.e. Legal/Finance/Health) are in place to help you run any process if technical support is required
- Enable Suppliers to demonstrate or discuss Performance Improvement requirements
- Suppliers like to perform, to be praised, and to know that their contributions are valued.

They perform, ACC performs – remember, the Performance of the Supplier reflects on ACC and the service or quality of outcomes provided to our clients.

Working with Challenging Suppliers

Challenging Suppliers

Handling challenging Suppliers is often, in itself, quite a challenging thing to do. However, these types of Suppliers need to be managed, ensuring any problems are addressed before they result in bigger issues, that may affect or impact the supply chain, ACC's clients, customers or the Contract's intended outcomes.

Suppliers can become challenging for a variety of reasons, these may include:

- Not understanding the Contract or scope of its requirements
- Financial pressures within their organisation
- Personality conflict(s)
- Loss of other service contracts
- Changes in key personnel or internal contract resourcing

There is no science to why a Supplier may become challenging to deal with, many things can influence Supplier behaviour, however, the approach to dealing with such an issue should be considered in line with the principles outlined below:

- Be mindful of how you communicate and be specific
- Remain calm and listen
- Separate the Supplier (or person) from the issues at hand
- Try not to issue new deadlines or ultimatums that could appear unreasonable
- Make meetings and engagements meaningful.

In most cases you need to try to find out and understand why the Supplier is being 'challenging'. Is there a problem that can be sorted out? Has there been a breakdown in communication? Are there steps or actions that can be undertaken to resolve the issue?

Understanding these fundamentals allows for a specific focus on the issue and tailoring of the conversation to adapt and avoids any conversation being clouded or diluted by other matters raised during discussions.

Holding Performance Discussions or Managing a Performance Improvement Process

Holding a Performance discussion or managing a Supplier through a Performance Improvement Process (PIP) can be the most challenging part of any Performance meeting, as you may be talking to items or actions that make the Supplier feel uncomfortable.

If you need to engage in potentially challenging discussion(s) with a Supplier about their Performance during a meeting, keep in mind one of the key principles of being open and clear, during the conversation. Ensuring that discussions adhere to the Performance management principles allows all issues to be put on the table, enabling debate, discussion, resolution, and planning.

Another key aspect to any Performance discussion is the issue of “closure” as the meeting must accomplish something. In order to ensure the Performance discussion achieves the desired outcome, decisions on what the outcome(s) are, need to be made.

Once you have this you can then design a strategy that can put closure to any issue(s) with a plan to address identified Performance shortcomings.

‘Closure’ means there will be a specific agreement about what will be done, by whom, and when it will be completed.

Preparation for Performance meetings will be a key to success. Ensure you have your facts, information and examples. Plan and know your key messages and practise your delivery if you have to.

It’s equally important that during these meetings that you identify and emphasise what contributes to good Performance as this can often help and aide the conversation towards achievement of the required outcome(s).

Before the Conversation

Give the Supplier notice, and set clear expectations for the conversation. Nobody responds well if they feel ambushed or cornered. Notice can be as simple as highlighting it as a specific item on the agenda for discussion.

Be fully prepared and ready to discuss the facts of the particular Performance issue, consider the potential solutions rather than focusing on the problem. In any Performance discussion it is critical to describe the impact of the problem at the individual, team or organisational level(s).

Being fully prepared ensures a clear focus on the issue at hand and any agreed resolution or actions are aligned to an outcome. It allows the focus to deal with the facts to resolve the issue with all parties and understand the impact of non-resolution.

The Performance Conversation

It’s important that the process and subsequent conversation for managing Performance improvement(s) starts with the facts.

During any Performance discussion, delivery and timing of the messages you want to communicate is important. You are potentially delivering a message that may provoke a number of possible reactions from a Supplier, including challenging your message. Given this, consider where Performance messaging is placed within a conversation to ensure the best possible outcome for the meeting.

For example:

First time failure of a Performance measure: may warrant a general discussion and form part of a pre-arranged meeting or agenda

Repeat failures of a Performance measure: may warrant a separate conversation or meeting outside of any pre-arranged engagement.

It's important that during the Performance discussion your concerns are outlined politely, concisely and directly to ensure no misunderstanding, along with examples to authenticate your message. Additionally, explain the need to have concerns dealt with in a manner that serves the interests of all stakeholders (which includes the Supplier), you, ACC and clients who are the recipients of their work. Listen carefully and discuss the issues, to establish what the root causes of under-Performance are and clearly identify the desired standards or Performance improvement(s) needed.

The best way to provide feedback is for it to be straightforward and simple. Focus on the key themes throughout your conversation and don't stray off into other areas; you'll risk diluting the messaging on your main points/issues. It's important you seek feedback from the Supplier on the facts, and specific behaviours to ensure mutual understanding of the Performance issues.

During the conversation, seek agreement from the Supplier about the facts, root causes and Performance improvement(s) needed.

Get the Supplier to identify steps towards making the desired Performance improvement and guide their thinking towards a solution(s), (as needed). If the Supplier has no insights to the problems, then it may be up to you to suggest and establish the plan needed for improvement.

Stay on message; this is your opportunity to set the agenda so stay focused on what you want to deliver. When indirect issues come up, decide whether they should be explored during the meeting or a new meeting set up to discuss them. This will keep the meeting moving and focused on the key points.

Set a future date to review progress against any agreed action(s) or steps required to rectify the Performance issue.

Agreed action(s) or activities should be recorded and form a record of conversation, so both parties are clear on discussion and agreed action(s) or activity(s) to address the issue at hand. It's important to keep accurate records of conversations, so any future discussions are in line with previous discussions. These records should be stored in CRM/Ariba.

Agreed action(s) activities or notes from the meeting should also be provided to the Supplier for their records.

Example of a Conversation:

Scenario: Lack of Staff Coverage- as a result, no Psychologist available for a prolonged period of time to assess clients. Impact is increase in costs for weekly comp.

A conversation such as this may take the lines of:

"Having no Psychologist available to assess clients for a prolonged period of time has led to increased durations for clients and increased costs, such as weekly compensation. This was raised by an ACC Case Manager as an issue in service delivery. This raises a concern to how you interpret and understand the contract on minimum staffing requirements and your notification processes".

The above has clearly outlined what the issues are:

1. ACC was not advised of the unavailability of a Psychologist, which impacts service delivery
2. This has potential impacts on clients and where applicable on weekly compensation costs
3. There are concerns regarding the Supplier's understanding of the agreement and requirements to notify ACC

Any Performance discussion must solely focus on the facts, and without emotive influences. Discussions should be clearly focused on achieving an outcome or action that will address the issue and ensure the best outcome for ACC and its clients.

It's important to listen to the Suppliers point of view and understand what has occurred, and allow them to propose the solution or resolution. For example just noting that they will notify us next time may not address any underlying issues that exist, so it is important to understand their internal processes and procedures related to notifications in the first instance.

Some helpful guides to Performance Discussions:

- Suggest objectives for the meeting (i.e. Define "success" before you meet (what do you want to achieve by the end of the meeting)
- Identify and review the Supplier's Performance versus contracted expectations
- Identify areas of fully satisfactory or superior Performance (where Expectations have been met) Positive feedback
- Identify areas of under-Performance, with examples. Identify the gap between expectations and actual Performance. Identify what impact this has on ACC/clients. A Supplier cannot be expected to improve if they do not know what the areas of under-Performance are
- Obtain mutual understanding that something has to be done to improve Performance and close the Performance gap
- Provide a clear message that you want the Supplier to succeed, and that you are there to help them do so
- Identify any training or other support mechanisms available to assist the Supplier
- Set objectives and timeframes for improvements. Develop a "go forward" Performance plan with milestones and tangible actions. This may require a subsequent meeting to finalise any training, coaching or other activities designed to help the Supplier
- Decide on the necessity and schedule follow-up meetings to review progress against the plan
- Establish the framework and tone for any future Performance meetings.

Performance Management Guidance

Performance measurement and holding Performance discussions can be complex and is not always a straight forward process, there is no 'magic formula' for Performance reviews, discussions or conversations that will work in every case.

The diagram below (diagram A) is designed to outline suitable response(s) to a particular Performance issue(s), it's not designed to be exhaustive but provide guidance on the type of response appropriate to the Performance issue(s) at hand. Please refer to the Performance Management tools section of Diagram A for guidance of the response type. The working document with active links can be found ([Performance Management Tools](#))

If you are unsure to the best approach for any particular Performance issue consult with your Manager to ensure ACC's response remains appropriate given the issue and circumstances at hand.

Additionally, it's important that we view Supplier Performance on a rolling basis, to ensure consistent delivery of services and alignment to Contract outcomes.

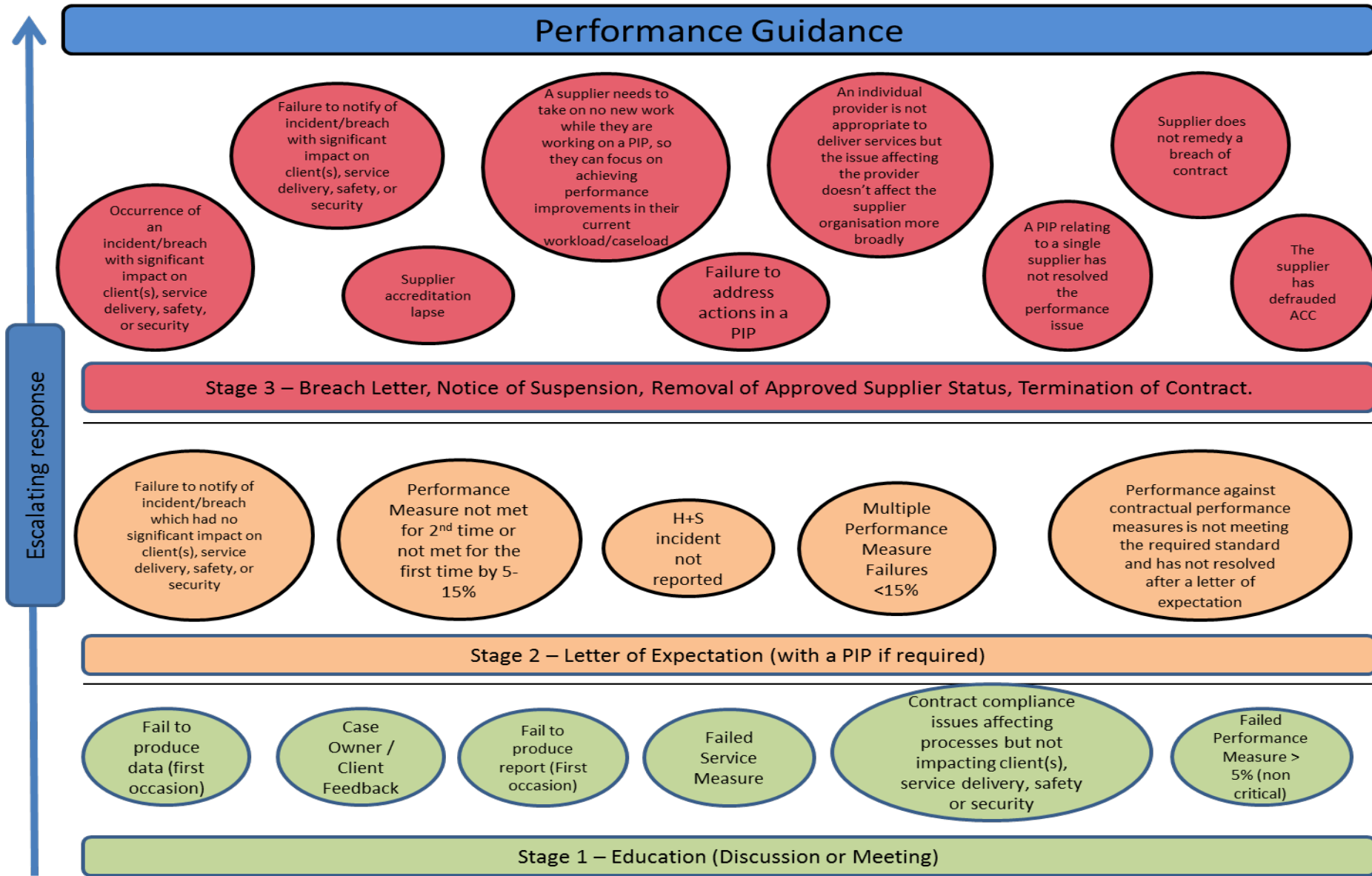
Some key points to keep in mind when looking at a performance issue may be:

- Is this the first failure of Performance measure(s)?
- Are there any repeated failed measures from the previous period, if so what may be causing the failure?
- Is the failure of a significant percentage when compared to their peers?
- Are the failures of significant concern to believe that patient care may be compromised and in turn our clients may not be receiving value or outcome related to the cost of services?
- If the Supplier is consistently meeting the measures, understand how they are achieving this. This is useful insight and may be useful when helping other Suppliers improve their Performance. It may pay to ensure that they are capturing and recording the information consistently in line with the measure requirements and their peers.

Key Notes for Diagram A:

- Performance should be addressed and considered on an ongoing basis, taking into account recent and previous periods of Performance
- These guidelines below apply to all contracted Suppliers, and thresholds noted for Performance Measures are provided for guidance only, they should not be read as absolute numbers. Consult with your Manager if unsure
- If a Supplier reaches or is escalating to a Stage 3 response, ensure you EPTM is informed throughout this process and consideration should be given to the appropriate response for the circumstances at hand
- Talk with your Manager and other Subject Matter Experts' as noted within Diagram A, before initiating any Stage 2/3 response
- Service Measures relate to other obligations (not Performance Measures) contained within the Contract. Example: requirement to notify ACC of staffing changes

DIAGRAM A



Performance Management Tools							
Example scenarios	Tool	Description	Decider / who signs it	Discuss with / consult	Inform	Links	Documentation
<ul style="list-style-type: none"> First occasion of a performance report/data not being provided Relatively isolated issue of performance objective not being met, e.g. for the first time or <5% Generic case owner or client feedback Contract compliance issues affecting processes but not impacting client(s), service delivery, safety or security 	Education	Explanation of requirements and/or formal education session(s) with the provider to correct behaviour.	EPM	NA	NA	Resources	Education tracker if a formal education session
<ul style="list-style-type: none"> Failure to notify of incident/breach which had no significant impact on client(s), service delivery, safety, or security A performance measure is not met for the second time, or it is not met for the first time by 5-15% Multiple performance measures are not met by <15% Second occasion of a performance report not being provided 							CRM/Ariba
<ul style="list-style-type: none"> Service delivery issues require improvement due to their risk to quality of service provision and/or client outcomes, safety or security. An issue has not resolved or met the required standard after a letter of expectation Multiple performance measures are not met by >15% Performance against contractual performance measures is not meeting the required standard and has not resolved after a letter of expectation 	Letter of expectation	This is a written “line in the sand” and summarises the issue(s) to date. It must mention the standard expected: <ul style="list-style-type: none"> Relevant clauses from the contract Reference from the Treatment Provider Handbook Other relevant policies or standards (e.g. professional body). 	EPM	NA	EPTM	Template Exemplars	CRM/Ariba
<ul style="list-style-type: none"> Performance against contractual performance measures is not meeting the required standard and has not resolved after a letter of expectation 							CRM/Ariba
<ul style="list-style-type: none"> Failure to notify of incident/breach with significant impact on client(s), service delivery, safety, or security. Occurrence of an incident/breach with significant impact on client(s), service delivery, safety, or security. Supplier does not achieve objectives of PIP Supplier accreditation lapse. 	Breach letter	Clearly state that it is a breach of our Standard Terms and Conditions and/or the Service Schedule. Must set out the clauses relevant to the breach.	EPTM	Legal Services	Consider: National Issues Manager	Template Exemplars	CRM/Ariba
<ul style="list-style-type: none"> A supplier needs to take on no new work while they are working on a PIP, so they can focus on achieving performance improvements in their current workload/caseload. 							Weekly report (as above)
<ul style="list-style-type: none"> An individual provider is not appropriate to deliver services but the issue affecting the provider doesn’t affect the supplier organisation more broadly. 	Notice of Suspension	<i>This tool is not relevant for all of our Contracts.</i> Letter is essentially putting the contract on hold and stopping any referrals. Clearly state the clause from our Standard Terms and Conditions and/or the Service	EPTM	Legal Services	Contract Administrator Portfolio Manager National Issues Manager	Template Exemplars	CRM/Ariba
<ul style="list-style-type: none"> A PIP relating to a single supplier has not resolved the performance issue. 							Weekly report (as above)
<ul style="list-style-type: none"> Supplier does not remedy a breach of contract. 	Removal of Approved Provider Status	<i>This tool is not relevant for all of our Contracts.</i> Clearly state the clause from our Standard Terms and Conditions. This is generally used to allow time for improvements to be made, or for mentoring or clinical oversight to address an issue	EPTM	Legal Services	Contracts Administrator Consider: National Issues Manager	Template Exemplars	CRM/Ariba
<ul style="list-style-type: none"> Supplier does not remedy a breach of contract. 							Weekly report (as above)
<ul style="list-style-type: none"> Supplier does not remedy a breach of contract. 	Termination of Contract	Must mention the termination if made in accordance with the Standard Terms and Conditions. Ensure you briefly cover the issues and the steps covered to the point that termination was applied.	Manager Health Procurement &		Contract Administrator Portfolio Manager National Issues Manager	Template Exemplars	CRM/Ariba
<ul style="list-style-type: none"> Supplier does not remedy a breach of contract. 							Weekly report (as above)
<ul style="list-style-type: none"> Supplier does not remedy a breach of contract. 	Termination of Contract	Must mention the termination if made in accordance with the Standard Terms and Conditions. Ensure you briefly cover the issues and the steps covered to the point that termination was applied.	Contracting	Page 10 of 13	Manager Manager, SPP	Exemplars	Weekly report (as above)

Performance Management Examples

The below examples are not exhaustive and should be used as guidance only:

Example 1

Supplier A has returned their Performance report for Q1 and this contains a failure of a Performance Measure by 4% or less. As this is the first failure of a Performance measure and the failure is less than 5% no action is required at this stage given the failure can be considered minor and education and guidance should be provided.

In the Q2 the same measure as Q1 is failed again by 2%, in this instance it is now a repeat failure, however given the failure is again less than 5% the response should escalate to a further discussion with the Supplier on how this can be rectified.

In Q3 the same measure is failed again by less than 5% and an additional measure has also been failed by 13%. Given the failure of the same measure in Q1, 2 and the additional failure of a measure in Q3, the response should now escalate to a meeting or discussion with the Supplier on achievement/rectification of the Performance measure(s), followed by a Letter of Expectation as these failures of Performance measures can now be considered as multiple.

In Q4 the same measure that was failed in Q1, 2, 3 is again failed in Q4 by 5% or less. Given that the last activity in terms of our response was a discussion or meeting on rectification and we have again seen failure, the response should now escalate to a formal Performance Improvement Plan (PIP) to rectify the repeat failures.

As Supplier A is now on a formal PIP process this should be managed and tracked to ensure closure of the identified actions of activity. Should any failures occur following the PIP process the escalation should increase to the appropriate stage three response.

Example 2

Supplier B has returned their Q1 Performance data with one failure of a PM by 3%, this is the first recorded failure of a PM for the Supplier, however given the failure is greater than 5% a meeting or discussion should take place with the Supplier on rectification of the measure.

In Q2 all Performance Measures were met, so no action is required.

In Q3 all performance measures were met, however you discover that there was a Privacy Breach in the same circumstances as a previous breach, for which a letter of expectation was issued. Following investigation and given the nature of the event, a PIP was implemented to mitigate any further occurrence, given that the expectation expressed after the first breach was not met. (i.e PIP is for breach, not performance against measures)

In Q4, the Supplier fails two different PMs from Q1 by 4%, taking the tally of failed measures in the last year to 3. Although the failures could appear trivial in nature given the small amount at which there is recorded failure, a discussion or meeting should still occur on the basis of multiple failures. Additionally, as the failures are not within consecutive quarters no Letter of Expectation is required at this point, however should there have been a third failure within Q4 or the initial failures were >5% a Letter of Expectation or PIP should be considered

Additionally given there was a privacy breach during the period, this should be taken into account when deciding upon any course of action.

Example 3

Supplier C has provided their Q1 reporting over 3 weeks late for the second consecutive quarter. Due to the repeated delay a Letter of Expectation would be appropriate.

Q1's performance measures were both failed by 15%. In Q2, the same measures were failed by 25% and 33% respectively and again reporting was late. The delay is now a repeat failure following a Letter of Expectation. Level 2 and 3 responses should be considered at this point given the background of letter of expectation due to delay. Discuss this with your team manager and get legal advice due to the mix and scale of performance issues.

It is important to remember that ACC's clients should be at the centre of "what we do" so effective Performance Management should keep this in mind and seek the best outcome for ACC, our clients and Suppliers.