

Remediation, Reskilling and Rehabilitation Policy for Doctors and Dentists in LCH	
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Executive summary

This policy provides a clear, formal framework to apply in order to address issues of remediation which arise in relation to an ability to perform to, and sustain the required standard for a post because of a shortfall in competency, skill, knowledge or understanding.

This policy adheres to the principle that all qualified medical and dental staff will undertake annual appraisal in keeping with process agreed at the time by the GMC, BMA, GDC and the Department of Health, and follow appropriate guidance and standards.

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1. Introduction

The Academy of Medical Royal Colleges' first report on the remediation of doctors was published in 2009¹. It considered how, in the context of revalidation, a need for remediation of a doctor's practice might arise, how this need might be met and who might be involved in the delivery of remediation.

Sir Liam Donaldson's report on the revalidation of doctors², recommended that "a clear and unambiguous set of standards should be set for each area of specialist medical practice. This work should be undertaken by the Medical Royal Colleges and specialist associations, with the input of patient representatives, led by the Academy of Medical Royal Colleges. This would enable the specification of good practice to be extended from the generic into each specialist field of practice (including general practice) and provide the basis for a regular objective assessment of standards".

The National Clinical Assessment Authority (later designated the National Clinical Assessment service – NCAS) was set up as a Special Health Authority in 2001 to advise organisations on the handling of doctors whose health, capability or behaviour in a professional content had given rise to concerns and to provide a mechanism for the assessment of these doctors. NCAS changed to become the NHS Litigation Authority in 2013.

Policy Scope

This policy and its supporting procedures cover all doctors employed by the Trust; it does not apply to training grade doctors who have the Post Graduate Deanery as their Responsible Officer (RO). The Trust will seek to fully co-operate with the Deanery where there are issues with trainees and to supply relevant information in a timely manner.

The policy provides a clear, formal framework to apply in order to address issues of remediation which arise in relation to an inability to perform to and/or sustain the required standard for a post because of a shortfall in knowledge, skills or behaviours.

This policy and its associated procedures will be ratified by the Remuneration Committee.

2. Aims and objectives

The aim of this policy is to resolve situations which relate specifically to the lack of capability of an employee to perform the work which they are employed to do. The policy is based on the NCAS document 'Back on Track'³ and is in line with the capability and remediation procedures for practitioners covered in the Department of Health documents 'Maintaining High Professional Standards in the Modern NHS'⁴ and 'Tackling Concerns Locally'⁵.

3. Definitions

Remediation

Remediation is the process of addressing performance concerns (Knowledge, skills and behaviours) that have been recognised, through assessment, investigation, review or appraisal so that the practitioner has the opportunity to practice safely. It is an umbrella term for all activities which can provide help from the simplest advice through formal mentoring, further training, reskilling and rehabilitation.

Reskilling

Reskilling is the process of addressing gaps in knowledge, skills and/or behaviours where a practitioner is performing below the required standard or as a result of an extended period of absence (usually over 6 months) so that the practitioner has the opportunity to return to safe practice. This may be, for example, following suspension, exclusion, maternity leave, career break or ill health.

Rehabilitation

Rehabilitation is the process of supporting the practitioner, who is disadvantaged by chronic ill health or disability, and enabling them to access, maintain or return to practice safely.

Practitioners

The term 'Practitioners' refers to doctors and dentists throughout this document.

4. Roles and responsibilities

All staff employed by Leeds Community Healthcare NHS Trust (LCH) must work in concordance with the LCH Policies and guidelines to include the Leeds safeguarding Multi-agency policies and procedures and local guidelines in relation to any safeguarding concerns they have for children or adults they are in contact with.

Once performance concerns are identified and it is agreed that remediation is appropriate, support from a range of individuals or external agencies will be necessary. The roles and responsibilities of a range of stakeholders in relation to remediation and revalidation are as follows:

Chief Executive

The Chief Executive is accountable to the LCH Board for ensuring all systems are in place if any concerns about the fitness to practice of any doctor or dentist within LCH are raised.

Responsible Officer

The Responsible Officer (RO) will ensure every practitioner (for whom they have a prescribed connection) has appropriate training and experience for their role. This also extends to those doctors who are employed by LCH but do not have a prescribed connection with the Trust. The RO/Medical Director will ensure that any issues with performance are addressed by the Trust, including remediation where appropriate. They will manage any conduct or performance procedures and have responsibility for actions arising out of any procedures.

The RO will determine whether a practitioner needs to undertake remediation and they will need to be clear about their recommendations, the objectives and the evidence they will expect to see, and the timescales by which they expect to undertake a review.

The RO will make a recommendation to the GMC that the doctor is up to date and fit to practice, (as a positive statement of assurance, not simply an absence of concerns).

Practitioners

Practitioners are responsible for ensuring that they are able to demonstrate, through the appraisal process, that they are meeting the described standards and are making use of the measurements generated to identify their development needs. If remediation is

necessary practitioners are responsible for demonstrating that the concern, deficit or issue has been resolved.

Associate Medical Directors (AMD) / Medical Leads (ML) and Dental Leads

AMD, ML and Dental Leads are responsible for the monitoring, job planning of the doctors and dentists in their service and need to ensure that practitioners are undertaking their appraisals. They are also responsible for acting as Programme Supervisors.

Appraisers

Appraisers will be adequately trained and supported to undertake their role in remediation.

Appraisers will have responsibility for gathering relevant evidence and monitoring through the appraisal process and for ensuring action plans are incorporated into the appraisal process and PDP of the appraisee.

Clinical Supervisors

May be asked to work with a doctor whose clinical skills or knowledge is giving cause for concern. As part of remediation direct clinical supervision may be necessary particularly following an extended period away from the clinical environment or when deficits have been identified through assessment or an investigation. Professional supervision, defined 'as, 'participation in regular and supported time out to reflect on the delivery of professional care to identify areas for further development and to sustain improved practice', may be an alternative to regular direct clinical supervision when intermittent or less frequent clinical supervision is required.

Mentors

Mentors will be an important element of any remediation programme, providing personal support, challenge and help developing reflective skills. The mentoring relationship is not intended as a line management role. Mentoring is a developmental process where a more experienced individual ('mentor') helps a less experienced individual ('mentee') in his/her personal and professional development. It does not include formal supervision; it is outside the direct reporting line and has no formal input to the appraisal or revalidation process, except to confirm to the Appraiser this has satisfactorily occurred.

Employers/contractors

The employer /contractor has a role in providing a supportive environment which allows remediation to take place without putting patients, the public or the doctor at risk.

Occupational Health Services

The Occupational Health service has a role when the practitioner's health is giving cause for concern. Onward referral to more specialist services may be necessary.

Royal Colleges and Faculties

These are responsible for standard setting for their specialty and have a direct role if the concerns relate to a clinical service or department. The Colleges will also be involved in individual cases to provide advice about standards, courses and supervision.

Deaneries

Their assistance is statutory for trainees only but they may also offer assistance for practitioners in:

- Planning remedial clinical training.
- Arranging clinical supervision.
- Arranging a mentor.

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- Offering access to supportive interventions such as coaching, counselling, career counselling

NCAS

NCAS will provide, through its action planning support service, advice and support in developing remediation, reskilling and rehabilitation programmes, monitoring progress and developing exit strategies. As part of the revalidation process NCAS will provide advice and support to the doctor, Appraiser, RO and employer/contractor.

NCAS should be contacted:

- If there are general concerns about a doctor's performance, conduct or competence
- If there are concerns that might require exclusion or suspension
- And in any other situation out with the revalidation process where the local organisation is unsure how to proceed.

General Medical Council (GMC)

The GMC role in revalidation is closely linked to the output of the appraisal process. A recommendation will be made to the GMC by the RO about the doctor's suitability for revalidation. If the concern identified, whether performance, health or conduct, is so serious as to call into question the doctor's licence to practise, then the GMC's advice must be taken.

5. Action When a Concern Arises

The management of performance within LCH is a continuous process, which is intended to identify any capability issues as they arise. Numerous ways now exist in which concerns about a practitioners performance can be identified;

- Concerns expressed by other NHS professionals, health care manager, students and non- clinical staff;
- Review of performance against job plans, annual appraisal, revalidation;
- Monitoring of data and quality of care to include incidents, complaints and patient activity;
- Clinical governance, clinical audit and other quality improvement activities;
- Complaints about care by patients or relatives of patients;
- Information from the regulatory bodies;
- Litigation following allegations of negligence;
- Information from the police or coroner;
- Court judgements.

All allegations, or concerns raised by colleagues, must be properly investigated to verify the facts and identify founded, unfounded or malicious allegations.

The Trust will work with the Universities and other provider organisations to ensure that jointly agreed procedures are in place for dealing with any concerns about practitioners with honorary contracts.

Concerns about the capability of doctors and dentists in training should be considered initially as training issues and the Postgraduate Dean should be involved from the outset.

The Medical Director/RO will work with the Director of Workforce to decide the appropriate course of action in each case. All concerns should be dealt with quickly and appropriately.

There may be a mixture of responses and proposed outcomes to move towards a resolution

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of the issues in keeping with the mixed nature of problems. Where the concerns are of a less serious nature and do not involve patient safety, an action plan will be agreed between the practitioner and the Medical Director/RO.

Where there are concerns of a more serious nature, inability to resolve issues with an action plan or concerns of patient safety, the use of the Trusts Managing Concerns with Performance Policy or Disciplinary policy in conjunction with the arrangements as set out in Maintaining High Professional Standards in the Modern NHS⁴ may be considered.

It is inevitable that some cases will cover conduct and capability issues. It is recognised that these cases can be complex and difficult to manage. If a case covers more than one category of problem, they should usually be combined under capability. There may, however, be occasions where it is necessary to pursue a conduct issue separately. For issues related to conduct these will be dealt with in line with the Trust's Disciplinary Policy. In the event of a dispute the relevant procedures will be followed. The practitioner is also entitled to use the Trust's grievance procedure. Alternatively or in addition he or she may make representations to the designated appeal panel.

Advice from NCAS will help LCH to come to a decision on whether the matter raises questions about the practitioner's capability as an individual (health problems, behavioural difficulties or lack of clinical competence) or whether there are other matters that need to be addressed. If the concerns about capability cannot be resolved routinely by management, the matter must be referred to NCAS before the matter can be considered by a capability panel (unless the practitioner refuses to have his or her case referred) if this recommendation is the outcome of the investigation. The Trust will also involve NCAS in any potential disciplinary cases.

Wherever possible, LCH will aim to resolve issues of capability (including clinical competence and health) through ongoing assessment and support. Early identification of problems is essential to reduce the risk of serious harm to patients.

NCAS will be consulted for advice to support the remediation of a doctor or dentist. LCH will use the National Patient Safety Agency document 'Back on Track'³ as the framework for their remediation strategy.

The Trust will ensure that managers and case investigators receive appropriate and effective training in the operation of this policy. Those undertaking investigations or sitting on capability or appeals panels must have had formal equal opportunities training before undertaking such duties. The LCH Board will agree what training staff and Board members must have completed before they can take a part in these proceedings.

Remediation, reskilling or rehabilitation may also result from the above processes.

This section sets out a summary of the 4 key stages in considering, developing, implementing and reviewing a return to work programme for practitioners.

Stage 1 – Entry to return to work programme

- **Start: Responsible Officer (RO)/Medical Director** reviews the recommendation for return to work programme, including information from assessment, investigation or review.
- RO/MD Considers the practitioner's training and support needs arising from the relevant reports.

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- RO/MD agrees options for resuming work and success criteria to achieve these, including prospects for success.
- RO/MD summarises the options for resuming work in an outline programme specification.
- **Finish:** Agreement in principle to proceed to Stage 2.

Stage 2 – Devise and agree return to work programme

- **Start:** RO/MD identifies individuals who will assist with the return to work programme, including a Programme Supervisor.
- The Programme Supervisor develops the overall return to work Action Plan using the NCAS Action Plan framework template to outline the plan to address identified training needs (Appendix 2) based on the output of Stage 1 to include:
 - Practitioner’s Improvement Plan, based on training needs;
 - Organisational action plan.
- Gain support from relevant authorities (e.g. Royal College, Deanery) to the aims, design, objectives, methods and resource requirements for the programme.
- **Finish:** Agreement of all parties to proceed with the programme.

Stage 3 – Implement plans and review progress

- **Start:** Implement plans.
- Once an agreed action plan has been developed the practitioner should construct a detailed plan using the NCAS Practitioner Action Plan template (Appendix 3). This should include programme objectives, interventions, use of placements, milestones, supporting information/evidence and actions to be taken if progress exceeds or falls short of expectations at specified review points.
- Review by Programme Supervisor of progress against objectives according to plans.
- Report by Programme Supervisor to RO on the extent to which the plans have been successfully completed.
- RO seeks view from relevant authority (e.g. Royal College, Deanery) on Supervisor’s report.
- **Finish:** Sign-off by RO/MD of extent of completion of individual and organisational action plans and appraisal.

Stage 4 – Complete programme and arrange follow-up

- **Start:** If programme has been successful, RO/MD agrees with responsible parties detailed arrangements for practitioner to resume employment under the terms agreed in Stage 1.
- If programme has been unsuccessful, RO/MD takes alternative management action.
- **Finish:** Following successful completion of the programme RO/MD agrees follow-up arrangements with practitioner.

6. Equality Analysis

LCH aims to design and implement services, policies and measures that meet the diverse needs of its population and workforce, ensuring none are placed at a disadvantage over others. LCH is subject to the quality duty as set out in the Equality Act 2010 and pay “due regard” for the need to:

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- Eliminate unlawful discrimination, harassment and victimisation
- Advance equality of opportunity and foster good relations between people who share a protected characteristic and those who do not.

Due regard for advancing equality involves:

- Removing or minimising disadvantages suffered by people due to their protected characteristics

7 Approval and Ratification Process

This Policy will be ratified by the Remuneration Committee on behalf of the LCH Board

8 Dissemination and Implementation

Dissemination of this policy will be via the RO Quarterly Newsletter, emailed to all medical and dental staff and held on the new LCH intranet site (Elsie) under the medical and dental leadership department.

9 Review arrangements

This policy will be reviewed annually.

10 Associated Policies

Appraisal policy and guidance for Consultants, SAS Doctors and Dentists in LCH
Acceptable Standards of Behaviour Policy
Disciplinary Policy and Procedure
Grievance Policy and Procedure
Whistleblowing Policy (formerly Hearing the Concerns of Workers Policy)
Maintaining High Professional Standards in the Modern NHS
Managing Concerns with Performance Policy
Managing Personal Relationships in the Workplace
Medical and Dental Job Planning Policy
Personal and Professional Development Policy
Managing Attendance Policy – Supporting Staff Health and Wellbeing
Clinical Audit Policy
Information Governance Policy
Alcohol, Drugs and Substance Misuse Policy
Statutory and Mandatory Training Policy

11 References - super script

1. Academy of Medical Royal Colleges (2009) Remediation and Revalidation
2. Department of Health (2006) Good Doctor: Safer Patients
3. NCAS (2010) National Clinical Assessment Service: Back on track: restoring doctors and dentists to safe professional practice: Framework document
4. Department of Health (2005) Maintaining High Professional Standards in the Modern NHS
5. Department of Health (2009) Tackling Concerns Locally'

12 Supporting documents

- Remediation (medical and dental staff) Policy. Nottingham University Hospitals NHS Trust (November 2011).
- Remediation policy to "Protect patients and safeguard GPs" in NHS Cambridgeshire and NHS Peterborough. Version 5: Due for review March 2013.
- Remediation Policy for medical staff (Draft): Rotherham Doncaster & South Humber NHS FT (2012)

Appendix 1: Equality Analysis (EA) - Relevance Screening Form

1. Name of the document	Remediation, Reskilling and Rehabilitation Policy for Doctors and Dentists in LCH			
2. What are the main aims and objectives of the document	The overall aim of this policy is to provide a clear set of procedures which can be referred to throughout the remediation process.			
3. Is this a key strategic document?	Yes		No	
			X	
4. What impact will this document have on the public or staff?	High	Medium	Low	Don't know
		X		
Explain: This policy relates to				
5. Is there any evidence, or reasons that different groups have different needs, experiences, issues and priorities in respect of this particular document?	Yes		No	
			X	
Explain: This policy is applicable to all doctors and dentists in LCH and provides a clear set of procedures which can be referred to throughout the remediation process.				

If you have answered **Yes** to question 3, you should move straight onto EA.

If, for question 4 you have answered **Low**, there is no need to continue to conduct an EA.

If for question 4 you have answered **Medium** and **No** for question 5, there is no need to conduct an EA.

If, for question 4 you have answered **Medium** or **Don't Know**, and have answered **Yes** or **Don't Know** for question 5 you should move on to a **Stage One** EA.

If, for question 4 you have answered **High**, you need to conduct an EA.

	Equality Analysis	None
6. Based on the result of the screening, is an EA required?		X

Dr. Amanda Thomas: Executive Medical Director

Linda Dobrzanska: Research & Responsible Officer Manager

Appendix 2



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NCAS Litigation Authority: Action planning framework

The top sections cover the eight areas which an action plan should address. See section 3.2 of the Back on Track Framework for Further Training ³ for more about what a framework should cover. If, after using the template, there is agreement in principle that a further training programme is the way forward, then use the Practitioner Action Plan next.

Likely timescale for completion			
The role to which Dr X could return if concerns are addressed			
Options to be considered if concerns are not addressed			
Support to be offered to the practitioner during further training			
Areas of concern	Suggested interventions which may contribute to development	Sources of evidence/supporting information which would inform decision-making	Resources
Notes on areas of agreement or areas for further discussion			

**CONFIDENTIAL****NCAS Resource: Practitioner Action Plan**

The template is in four sections: Part 1 sets out the agreement, Part 2 specifies objectives, Part 3 records progress and Part 4 signs off the agreement at the end of the programme. There are then two annexes which summarise objectives and timetable. More information . See section 3.2 of the Back on Track Framework for Further Training ³.

PART 1 – AGREEMENT

Name of practitioner Dr/Mr/Mrs/Ms/Miss (delete as necessary)	
Profession and specialty	
Registration number	
Employing/contracting body	
Address	
NCAS case number (where applicable)	

1. Purpose

The purpose of this plan is for the practitioner named above to address the performance concerns identified by [NCAS/local procedures/college or other educational body/health regulator – *add or delete as necessary*]

2. Roles and responsibilities for management of this plan

The RO identified by the employer/contracting body is:

Name	
Job title	

The Programme Supervisor is:

Name	
Job title	

The Educational Adviser is:

Name	
Job title	
Organisation	

Note – use where there is a college, deanery or other educational adviser in addition to the programme supervisor

The Clinical Supervisor is:

Name	
Job title	
Organisation	

3. Progress review

The plan is expected to last [add duration] months. Progress will be formally reviewed by the RO and by the Programme Supervisor every [add interval] months and at the end of the plan.

The named practitioner should be able to demonstrate satisfactory and incremental progress throughout the programme and continuing ability to reflect and learn from [his/her] own and [his/her] colleagues' practice.

4. Post to which the practitioner is likely to return

On successful completion of the plan it is proposed that named practitioner will continue in practice or return to practice in the clinical post/area described below.

Name of post	
Broad description of post/clinical area	
Employer/Contracting body	

Note that post, responsibilities and seniority may not be those applying at the time of the concerns resulting in assessment or other governance process

The RO will consider taking management action in the following circumstances, if the expected progress towards objectives is not demonstrated:

1. Where failure to progress occurs at the first or second milestone, continuing with the action plan but re-assessing objectives can be considered. A change of objective will only be agreed to where there is clear evidence of progress even though falling short of the performance standard defined in the plan. The overall time allotted to the action plan will not be extended.
2. A failure to progress in achieving the agreed objectives may result in [sanctions – add relevant possibilities such as Performers List action, use of disciplinary action, use of disciplinary/capability procedures, referral to regulatory body] and/or a new final employment goal such as redeployment. These possibilities will be considered if, in the opinion of the Clinical Supervisor and Programme Supervisor, the objectives are not likely to be met in the remaining time allocated to the action plan despite the practitioner having ample opportunity to demonstrate progress.
3. If a failure to progress raises concerns in relation to patient safety or professional probity, the clinical supervisor may make a referral to the [Add relevant regulator].
4. If a failure to progress is related to sickness absence, it may be appropriate to defer the plan's completion date. The normal quota of annual leave may be taken during the period of the action plan, but this must be pro-rata. Any period of sickness absence greater than that covered by self-certification must be supported by a doctor's certificate. A cumulative absence due to illness of more than [Add – for example, two weeks in six months] will trigger a referral to the Occupational Health Service unless seen as unnecessary in the

opinion of the clinical supervisor and programme supervisor. Reasons for not making an OH referral will be given.

Where an organisational action plan has been agreed (in addition to this plan for the individual practitioner) progress will be reported to the practitioner at review points. *[Delete as necessary]*

5. Agreement

This plan has been developed with the cooperation of all parties who are satisfied that the identified objectives reflect the issues identified in:

- the decision of the regulator when this body is involved and/or
- the assessment report and recommendations for NCAS cases and/or
- the review report and recommendations from the Royal College and/or
- local investigation
- *[Add or delete as necessary]*

All parties agree to the objectives set out in the plan and will take forward the programme as set out in the plan, adhering to the accompanying notes. If further objectives need to be added to the plan during the course of the programme, these may be added following agreement of all parties.

	Name and organisation	Signature	Date
Practitioner			
Chief Executive of employer/contracting body			
RO on behalf of Chief Executive			
Programme Supervisor (on behalf of competent body or employer/contracting body)			
Appointed representative of practice/pharmacy where applicable			
Clinical Supervisor			
Additional participants as necessary			

PART 2 – OBJECTIVES

Objective 1

Area to be addressed:	
Specific objective(s)	
How	
Where	
Supervisor(s)	
Resources required [Including funding and provider of funding]	
Timescale	
Milestones	
Supportive evidence	
Individual responsible for monitoring/sign off	

Copy this block for each area of concern and related objective(s) and set out how the objectives will be met. Then make a summary in Annex 1, and a composite timetable in Annex 2.

Objective 2 etc

Area to be addressed:	
Specific objective(s)	
How	
Where	
Supervisor(s)	
Resources required [Including funding and provider of funding]	
Timescale	
Milestones	
Supportive evidence	
Individual responsible for monitoring/sign off	

PART 3 - REVIEW

Objective 1	
Review date	
Clinical Supervisor comments	
	Signed: _____ Date: _____
	Proposed Summary Score: _____
Practitioner comments	
	Signed: _____ Date: _____
Programme Supervisor comments	
	Signed: _____ Date: _____
	Agreed Summary Score: _____
RO comments	
	Signed: _____ Date: _____
	Agreed Summary Score: _____

Objective 2 etc	
Review date	
Clinical Supervisor comments	
	Signed: _____ Date: _____
	Proposed Summary Score: _____
Practitioner comments	
	Signed: _____ Date: _____
Programme Supervisor comments	
	Signed: _____ Date: _____
	Agreed Summary Score: _____
RO comments	
	Signed: _____ Date: _____
	Agreed Summary Score: _____

Note – as in part 2, copy this block for each area of the plan. NCAS suggests use of summary scores to record progress -0 = no progress, 1 = partial progress, 2 = objective fully achieved.

PART 4 – SIGN OFF

The signatures below **confirm** the completion of the plan by the practitioner, who agrees to make this document available to the future appraiser/appraising body. In this way, progress can be maintained and the appraisal process is informed by the plan.

	Name	Signature	Date
Programme Supervisor			
	Final comments		
Practitioner			
	Final comments		
RO			
	Final comments		

Other parties should sign here, as necessary:

	Signature	Date
Name		
Organisation		
Name		
Organisation		

ANNEXES

1. SUMMARY OF OBJECTIVES

Objective 1	
Mechanism to achieve objective	
Where the education/training will take place	
Resource requirement	
Named person/organisation to help achieve the objective	
Evidence demonstrating that the objective has been met	
Timescale to achieve objective	

Objective 2 etc	
Mechanism to achieve objective	
Where the education/training will take place	
Resource requirement	
Named person/organisation to help achieve the objective	
Evidence demonstrating that the objective has been met	
Timescale to achieve objective	

2. TIMETABLE SUMMARY

	Month 1	Month 2	Month 3	Month 4	Month 5	Month 6
Objective 1						
Objective 2						
Objective 3						
Objective 4						
Objective 5						
Objective 6						

For each objective identify start month, review month(s) and planned completion month. Add more months if needed.