

Redditch Borough Council

Forge Leisure Solution

Proposed Default Process – V1 Aug 18

Throughout the Contract Period, the performance of the contractor in providing the service will be monitored in accordance with the arrangements set out in the Contract based upon the requirements of the service specification and measure dashboard.

Failure to provide the service to an acceptable standard will result in allocated levels of seriousness from Level 1 up to Level 4 as shown below.

On each occasion a failure to comply is noted, a complaints notice will be issued to the NewCo's management detailing the nature of the failure, the level of seriousness allocated to it, and the time limit within which the failure must be rectified and Service restored to its specified standard.

Should the contractor fail to restore the Service to the Contract Standard by the due date, the Contracts Officer will issue a default notice to the Operations Manager that will serve the following purposes:

Step 1:

1. It will declare that the Provider has defaulted in providing the Service, or part of it.
2. It will state the Council's intention to calculate the financial value of the failure, details of which will subsequently be confirmed in writing, and will formally notify the Provider that a deduction of the calculated amount will be made from the next payment or payments to the Provider from the Council.
3. Allocate the instance of failure to provide the Service to the next level of seriousness if this is a subsequent Complaint Notice on the same issue, and specifying a revised time limit by which the Service must be restored.
4. Where a failure is rectified by the due date and time, no further action will be taken.

Step 2:

1. If the Provider should again not rectify the failure and restore the Service within the time limit, a further Default Notice will be issued by the Head of Service to the Operations Manager and/or Managing Director, and a further calculation of the financial value will be undertaken.

This will again be deducted from the next payment to the Provider and will be reviewed at the quarterly contract monitoring meetings.

2. In the event of the repeated failure to respond to the Complaint Notices, a cycle of Complaint Notices, default notices and deductions will continue until the Provider complies and rectifies a "Level 4" default.

This will then be raised through a formal contract notice with the company required to formally respond to the concerns raised by the Council. These will be reported to the Council's CEO and Shareholder committee.

Step 3:

1. Should the issues identified within the default notice not be rectified and/or the CEO feel that these matters require further discussion this will be raised at the shareholders committee and a formal response requested from the Chair of the NewCo board to include proposed corrective action.

Levels of Seriousness:

Level 1: Small problems or omissions which nevertheless have a noticeable effect on the delivery of the Service. To be rectified on the same day as the issue of the complaint notice. Examples include: failure to comply with cleaning standard where the effect is more than merely visual – unpleasant odours, unserviceable lights, out-of-date notices, graffiti, etc.

Level 2: Serious problems or omissions which create a significant level of inconvenience, unpleasantness or disruption to the Service. To be rectified, or rectifying action to be initiated within 24 hours of the issue of the complaint notice. Examples include: failure to carry out prompt or adequate maintenance – unserviceable taps/WC/urinals unavailable services or consumable equipment unavailable or unserviceable

Level 3: Very serious problems or omissions which create an unacceptably high level of inconvenience, unpleasantness, disruption and are a potential hazard to safety, health or hygiene. To be rectified, or rectifying action to be initiated within one hour of the issue of the complaints notice. Examples include: water and/or air temperatures not to specification, chemical balance of water incorrect, webs sites unavailable, charging incorrect or unauthorised fees etc.

Level 4: Problems or omissions of the utmost seriousness creating an immediate high risk to health, safety or the wellbeing of staff or users, requiring either immediate rectification or the withdrawal from use of equipment or closure of all or parts of the Facility. In this instance, the complaint notice will be bypassed and a default notice issued immediately. Examples include: insufficient or unqualified staff on shift or undertaking delivery, damaged or unserviceable equipment in use, unhygienic levels of cleanliness in food preparation areas, breach of health and safety rules and unsecured service areas.

NB: The final version of the proposed approach will form part of the contract documentation suite and be formally drafted during the mobilisation period.