

WARWICK DISTRICT COUNCIL

TERMINATION OF CONTRACT PROCEDURE

This procedure follows government guidance under the Disputes Resolution Regulations 2004. It establishes what action should be taken in cases where it is proposed to dismiss an employee in circumstance where there are no specific arrangements in place. It therefore only relates to dismissals on the grounds of:

- compulsory retirement before the age of 65 (including ill-health retirement)
- redundancy situation (including voluntary redundancy)
- non renewal of a fixed term contract
- in certain cases, some other substantial reason.

It does not cover dismissals where there are other Warwick District Council procedures for dealing with the situation, for example:

- disciplinary procedure
- capability procedure
- probation procedure

The Statutory Procedures also give the following exemptions:

- where continued employment would contravene a legal duty or restriction
- to dismissals on the grounds that employees have gone on strike or taken other industrial action
- if the employer's business ceases to function because of an unforeseen event and it is impracticable to employ any employees
- to dismissals accompanied by offers of re-engagement on different terms if all of the employees of the same category are also dismissed and offered re-engagement

PROCEDURE

1. Step One

Step one is a statement of the grounds for action and an invitation to attend a meeting.

- The manager must write to the employee giving the nature of the circumstances that may result in dismissal, inviting him or her to attend a meeting to discuss the matter and giving the right to be accompanied by a colleague or trade union representative.

- The employee must be given reasonable time to consider this information.

2. Step Two

Step two relates to the meeting itself.

- The meeting must take place before any action is taken
- The meeting must not take place unless the employee has been informed of the grounds for the action described in the statement.
- The meeting must not take place unless the employee has had a reasonable opportunity to consider his or her response to the above information.
- The employee must take all reasonable steps to attend the meeting.
- Where an employee wishes to be accompanied but their representative is not available to attend at the time allocated, the meeting must be postponed for up to a maximum of five days after the originally proposed date.
- After the meeting, the manager must inform the employee of the decision and notify the employee of his or her right to appeal against the decision.

3. Step Three

Step three covers the appeal.

- If the employee wishes to appeal, he or she must inform the Manager.
- If the employee informs the employer of his or her wish to appeal, the employer must invite the employee to attend an appeal meeting, advising him or her of the right to be accompanied by a colleague or trade union representative.
- The appeal meeting should be led by a more senior manager than the manager who led the original meeting.
- The employee must take all reasonable steps to attend the meeting.
- The appeal meeting need not take place before the dismissal.
- After the appeal meeting, the employer must inform the employee of his or her final decision.

4. General Requirements of the Statutory Procedures

The following requirements apply to statutory procedures.

- Each step and action under the procedure must be taken without unreasonable delay, but there is no prescribed timetable.
- The timing and location of meetings must be reasonable.

- If either party does not attend the meeting for a reason that was unforeseeable when the meeting was arranged, the employer must reschedule the meeting.
- Meetings must be conducted in a manner that enables both the employer and employee to explain their cases.
- Employees have a right to be accompanied at the meetings.
- For the appeal stage of each procedure, the employer should be represented by a more senior manager than attended the first meeting.

4. GUIDANCE NOTES ON HANDLING THE PROCESS

4.1 Guidance for Managers

Where necessary, special allowances shall be made (such as extra time or assistance) to those whose first language is not English. Reasonable adjustments for people with disabilities (for example employees with speech, hearing or visual impairment, or learning difficulties) must also be made.

Where possible arrangements for all formal meeting within this procedure should be agreed with the employee. If an employee fails to attend through circumstances outside their control and unforeseeable at the time the meeting was arranged, the manager should arrange another meeting. A decision may be taken in the employee's absence if they fail to attend the rearranged meeting without good reason. If an employee's companion cannot attend on the proposed date, the employee can suggest another date so long as it is reasonable and no more than five working days after the date originally proposed by the employer.

4.2 Keeping Records

It is important to keep written records during the termination of contract process. Records should include:

- minutes from all meetings held with the employee under the Termination of Contract Procedure.
- reason for the dismissal
- findings made and action taken
- whether an appeal was lodged
- the outcome of the appeal
- any complaints raised during the termination of contract procedure;
- subsequent developments.

Records should be treated as confidential and be kept no longer than necessary as detailed in the Data Protection Act 1998.

Copies of meeting records should be given to the employee in writing, including any copies of formal minutes that may have been taken. Where necessary (for example to protect a witness) the manager might withhold some information.

4.3 Complaints Raised During the Termination of Contract Process

If an employee makes a complaint relating to a termination of contract issue, the Council's Grievance Procedure will not apply. The manager will:

- normally deal with the complaint within the termination of contract procedure
- act fairly, quickly and after proper consultation
- consider whether to suspend the termination of contract process for a short period while the complaint is dealt with
- consider whether another manager should continue with the termination of contract case or deal with the complaint
- ensure that complaints raised prior to any termination of contract appeal meeting are properly discussed and considered during the course of the appeal meeting.

4.4 Officers Authorised to Take Action

Wherever the word 'supervisor' or 'manager' is used in this document it refers to Managers who are authorised by their Director to operate this procedure.