

Procedure for Hearing Teachers' Grievances



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PROCEDURE FOR HEARING TEACHERS' GRIEVANCES

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PROCEDURE FOR HEARING TEACHERS' GRIEVANCES

1. INTRODUCTION

- 1.1 The council and trade unions recognise that on occasions teachers will wish to raise concerns relating to their employment on an individual or collective basis. The council and trade unions agree that there is a need to provide a mechanism for raising such concerns with a view to resolving them, whenever possible, through discussion and agreement and as speedily as possible. The aim of this procedure therefore is to provide such a mechanism.
- 1.2 Whilst recognising the need for a formal procedure the council and trade unions accept as a general principle that grievances are best resolved informally and as close to the point of origin as possible. In accordance with this principle it is agreed that the formal procedure should not normally be used until attempts at informal grievance resolution, as described in paragraphs 3.1 – 3.3 below, have been tried and have failed.
- 1.3 The council and trade unions recognise that particular considerations arise in cases of alleged harassment at work with regard to informal grievance resolution and the operation of Stage 1 of the formal procedure. It is essential therefore that in such cases this procedure is read in conjunction with the council's [Policy and Procedure on Dealing with Bullying and Harassment at Work](#).
- 1.4 With regard to Stage 2 of the formal procedure detailed below, The Depute Chief Executive for Education, Planning and Area Services may delegate to nominated senior officers who will hear the grievance and reach a decision thereon. A list of senior officers (by delegation) so authorised will be produced and made available to the trade unions.
- 1.5 Any proposal to depart from the time limits specified in the Procedure will require mutual agreement.
- 1.6 A teacher or a Head Teacher may be represented at any stage of the procedure.
- 1.7 A group of teachers may be represented by an official of a professional association, or by a deputation (consisting of up to three teachers) representing the group.

2. SCOPE OF PROCEDURE

- 2.1 Matters to be dealt with in accordance with this procedure are as follows:
 - a) any question as to an employee's rights generally under the relevant Scheme of Conditions of Service;

- b) any question as to whether there has been discrimination against an employee contrary to the terms of the relevant Scheme of Conditions of Service or the council's Equality in Employment and Service Provision Policy and related policies or the relevant statutory provisions;
 - c) any question as to the rights in respect of which an employee has a right to complain to an Employment tribunal, excluding termination of employment on disciplinary grounds; and
 - d) all other teacher grievances, excluding any matter related to disciplinary action for which a right of appeal is provided under the council's [Disciplinary Procedure](#).
- 2.2 The right of appeal contained in paragraphs 2.1(b) and 2.1(c) above will not preclude an employee from registering a complaint on the same grounds with an Employment tribunal.

3. INFORMAL GRIEVANCE RESOLUTION

- 3.1 It is accepted that, where a teacher has concerns relating to their employment, the initial efforts aimed at resolving the matter should be made through informal discussions between the teacher and their Head Teacher or designated Senior Member of Staff where it is agreed that it is appropriate. A school representative or colleague may accompany the teacher.
- 3.2 During these informal discussions, the Head Teacher or senior member of staff should attempt to identify the nature and cause of the teacher's concerns; the possible courses of action or responses; and the implications of adopting any particular course of action. At the conclusion of these discussions (or within three working days thereafter), the supervisor should inform the teacher of the action, if any, they intend to take in response to the issue raised.
- 3.3 If, following these discussions, the teacher remains dissatisfied, the matter may be lodged in writing as a formal grievance either by the teacher or their representative. The matter will then be processed in accordance with the formal procedure, either to the Head Teacher or directly to the Depute Chief Executive (where the grievance is against the Head Teacher).
- 3.4 Where the grievance relates to an allegation of harassment, in some cases and with agreement of the complainant, efforts to resolve the grievance through informal discussion may still be appropriate. In such cases the particular provisions of the council's [Bullying and Harassment Policy and Procedure](#) relating to informal approaches to the alleged harasser will be followed.

4. GRIEVANCE PROCEDURE – GENERAL

- 4.1 At Stages 1 and 2 of the formal procedure, the following procedural requirements will be adhered to. It should be noted that the procedure should be entered at the appropriate stage dependent upon the seniority of the person against whom the grievance is lodged.
- 4.2 The teacher or their representative will submit a written statement (forms are provided for this purpose at appendices 2 and 3), and supporting documentation if appropriate, setting-out the nature of the grievance to be considered.

- 4.3 Following receipt of this written statement and any supporting documentation, the appropriate Head Teacher/Senior Member of Staff/Depute Chief Executive or Senior Officer, Education Services will arrange a hearing to consider the grievance.
- 4.4 The Head Teacher/Senior Member of Staff/Depute Chief Executive or Senior Officer, Education Services conducting the hearing will ensure that all relevant information is presented and considered. Where appropriate, officers involved at an earlier stage will attend the hearing to facilitate discussions on the issue in question.
- 4.5 The Head Teacher/Senior Member of Staff/Depute Chief Executive or Senior Officer, Education Services conducting the hearing may be advised by Human Resources and/or other appropriate staff. Where possible, the Human Resources officer providing advice should be different from the officer who provided advice at an earlier stage.
- 4.6 The teacher will have the right to call witnesses on their behalf subject to the names of any such witnesses being provided in advance to the Head Teacher/Senior Member of Staff/Depute Chief Executive or Senior Officer, Education Services.
- 4.7 The teacher will have the right to be accompanied/represented by a trade union official or some other person of their choice.
- 4.8 Where the issue relates to a group of employees, up to three spokespersons, together with their representatives, if any, may attend the hearing.
- 4.9 Paragraphs 3.4 and 5.4 will apply only where the grievance procedure has been invoked through the [Bullying and Harassment Policy and Procedure](#).

5. STAGE 1 HEARING

- 5.1 Following receipt of the written notification of a formal grievance, the Head Teacher/Senior Member of Staff will arrange a grievance hearing. This hearing will be held within ten working days of the necessary written submission being received.
- 5.2 Following the above hearing, a written response will be given to the teacher, with a copy to their representative, if any, within five working days of the hearing.
- 5.3 In some instances depending on the nature of the grievance (see section 3), it will be inappropriate for the matter to be considered by the immediate Head of Establishment and in the circumstances the matter will be referred directly to the Depute Chief Executive to be considered under Stage 2 of the formal procedure.
- 5.4 In cases involving allegations of harassment at work, it may be inappropriate for the grievance to be considered by the immediate Head of Establishment. In such cases another officer will be identified to hear the grievance at Stage 1 level in accordance with the provisions detailed in the council's Bullying and Harassment Policy and Procedure.

6. STAGE 2 HEARING

- 6.1 If the teacher remains dissatisfied, the employee or a representative may refer the matter to the Depute Chief Executive or another nominated senior officer, with a request for a further hearing. This request must be submitted within ten working days of the teacher being notified of the outcome of the Stage 1 hearing. It should be noted that in accordance with par. 5.3 this may be the first formal stage.

- 6.2 Following receipt of the necessary written submission, the Depute Chief Executive or a senior nominated officer will arrange a further grievance hearing, following consultations with Human Resources, with a view to resolving the matter. This meeting will be held within ten working days of the teachers written submission being received.
- 6.3 If appropriate, a full time official of the relevant trade union will, if not already involved, be contacted regarding the above hearing.
- 6.4 Following the above hearing, a written response will be given to the employee, with a copy to their representative, if any, within five working days of the hearing.

7. STAGE 3 – APPEALS COMMITTEE

- 7.1 If the teacher remains dissatisfied, they or their representative may refer the matter, in writing, to the Head of Corporate Services with a copy to the Depute Chief Executive. Any such appeal must be submitted within ten working days of the employee being notified of the outcome of the Stage 2 hearing.
- 7.2 The Head of Corporate Services will arrange for the matter to be considered by the Appeals Committee within twenty working days of receipt of the letter of appeal or as soon as possible after that. The appeal will be heard in accordance with the procedure set out in Section 15 to this procedure. NB the scope of this procedure terminates at this stage.

8. APPEALS TO THE SCOTTISH NEGOTIATING COMMITTEE FOR TEACHERS (SNCT)

- 8.1 The final decision of the council can be submitted to the Joint Secretaries of the Scottish Negotiating Committee for Teachers (SNCT) for consideration through its appeals process only if the subject matter of the original grievance relates to the interpretation or implementation of a national agreement put into effect by the SNCT.
- 8.2 The Joint Secretaries will consider whether the council has complied with and/or properly interpreted the National Agreement on Salaries and Conditions of Service, and has taken account of all relevant factors. If the Joint Secretaries are not satisfied that the council has acted correctly or appropriately, it will refer the matter back to the council with appropriate advice. If the mediation or the advice does not resolve the matter, or if there is a failure to agree, then the Joint Secretaries will refer the case to the Appeals Panel of the SNCT.
- 8.3 The decision of the Appeals Panel will be final and binding.

9. TIME LIMITS

The time limits relating to Stages 1, 2 and 3 of this procedure may be varied by mutual agreement.

EMPLOYEE APPEALS COMMITTEE**PROCEDURE FOR CONSIDERATION OF EMPLOYEE GRIEVANCES****1. TERMS OF REFERENCE**

- 1.1 The Employee Appeals Committee will be convened to hear an appeal against a decision taken by the Depute Chief Executive for Education, Planning and Area Services, or their nominee, under Stage 2 of the Procedure for Hearing Employee Grievances.
- 1.2 The Employee Appeals Committee will have delegated power from the Council to decide grievances and will be the council's final arbiter on such matters.

2. CONDITIONS RELATING TO AN APPEAL

- 2.1 For the Employee Appeals Committee to be convened notice of appeal must be lodged with the Head of Corporate Services within ten working days of the appellant receiving written notification of the decision arising out of the Stage 2 grievance hearing.
- 2.2 The notice of appeal, which must be in writing, may be lodged by the appellant or their trade union or by some other person of the appellant's choice.
- 2.3 The appellant and their representative, if any, will be given a minimum of ten working days' notice in writing of the date, time and place of the appeal hearing.

3. MEMBERSHIP OF THE EMPLOYEE APPEALS COMMITTEE

- 3.1 The Employee Appeals Committee comprises a panel of eight members. Five members are called to Employee Appeals Committee meetings and three form a quorum.
- 3.2 Where a meeting of the Employee Appeals Committee is adjourned for any reason, only those members in attendance at the original hearing will be eligible to attend the reconvened hearing.

4. REPRESENTATION AND ATTENDANCE OF OFFICERS

- 4.1 The Depute Chief Executive (or representative) will represent the council at the appeal hearing. In cases of appeals against grading the council's representatives may include an officer from Human Resources.
- 4.2 The appellant has the right to be represented at the appeal hearing by a trade union official or officials or by some other person of their choice. Where the grievance or appeal is of a collective nature the appellants will nominate a representative and a maximum of three spokespersons from within their number.
- 4.3 The Committee Services Manager or representative will act as Clerk to the Employee Appeals Committee.
- 4.4 The Head of Corporate Services or representative will act as adviser to the Employee Appeals Committee.

4.5 If an appeal hearing is adjourned, all parties involved will ensure that, other than in exceptional circumstances, the original representatives attend the re-convened hearing for continuity purposes.

5. PROCEDURE PRIOR TO APPEAL HEARING

5.1 Following submission of a written notice of appeal, the appellant or their representative will submit to the Committee Services Manager:

- a written statement indicating the nature of the grievance;
- copies of any written statements made by witnesses for the appellant which were considered at the Stage 2 hearing;
- a copy of any other documents to be placed before the Employee Appeals Committee; and
- the names of any witnesses to be called to give evidence on behalf of the appellant.

5.2 The Depute Chief Executive will submit to the Committee Services Manager:

- a written statement indicating the response to the appellant's grievance;
- copies of any written statements made by witnesses for the council which were considered at the Stage 2 hearing;
- a copy of any other documents to be placed before the Employee Appeals Committee; and
- the names of any witnesses to be called to give evidence on behalf of the council.

5.3 The Committee Services Manager will issue the agenda for the meeting of the Employee Appeals Committee, which will contain all the documents submitted under paragraphs 5.1 and 5.2 above, not less than 5 working days in advance of the appeal hearing.

5.4 The Employee Appeals Committee may order such other information and/or documents to be submitted as it may consider appropriate.

6. PROCEDURE TO BE FOLLOWED AT APPEAL HEARING

6.1 Witnesses will be excluded until called unless it is agreed that they should be present from the start of the hearing.

6.2 The appellant or their representatives will present the case in the presence of the council's representatives and may call witnesses.

6.3 The council's representatives will have the opportunity to ask questions of the appellant, their representatives and witnesses.

6.4 The Employee Appeals Committee members will have the opportunity to ask questions of the appellant, their representatives and witnesses.

6.5 The appellant or their representatives will have the opportunity to re-examine witnesses on any matters referred to in their questioning by Employee Appeals Committee members or the council's representatives.

6.6 The council's representatives will present the case, in the presence of the appellant and their representatives, and may call witnesses. The appellant or their

representatives will have the opportunity to ask questions of the council's representatives and witnesses.

- 6.7 The Employee Appeals Committee members will have the opportunity to ask questions of the council's representatives and witnesses.
- 6.8 The council's representatives will have the opportunity to re-examine witnesses on any matter referred to in their questioning by Employee Appeals Committee members, the appellant or their representatives.
- 6.9 The appellant or their representatives, then the council's representatives, will have the opportunity to sum up their cases if they so wish. The summing up will not introduce any new matter.
- 6.10 If at any stage new facts are alleged or new evidence produced, the Employee Appeals Committee, either at the request of one or both parties or of its own volition, may adjourn the hearing for such period as it may deem reasonable.
- 6.11 At the conclusion of the evidence the council's representatives, the appellant and their representatives and any witnesses will withdraw.
- 6.12 The Employee Appeals Committee, together with the officers appointed to assist the Committee, will deliberate in private, only recalling the council's representatives and the appellant and their representatives to clarify points of uncertainty on evidence already given. If recall is necessary both parties are to return, notwithstanding only one is concerned with the point giving rise to doubt.
- 6.13 The Employee Appeals Committee will, if practicable, announce its decision to the parties at the conclusion of the hearing. In any event the decision will be notified, in writing, to the appellant and their representatives by the Committee Services Manager within three working days of the date of the hearing.

7. POWERS OF THE EMPLOYEE APPEALS COMMITTEE IN GRIEVANCE/APPEAL CASES

The form of the decision of the Employee Appeals Committee:

"that the grounds of the grievance have been substantiated and the appeal be upheld"

"that the grounds of the grievance have been substantiated in part and the appeal be upheld to the extent that

"that the grounds of the grievance have not been substantiated and the appeal be not upheld".

8. REPORTING TO EDUCATION EXECUTIVE

The decision of the Employee Appeals Committee will be reported to the Education Executive and referred to the Council Executive at the earliest opportunity.

9. TIME LIMITS

The time limits in this procedure may be varied by mutual agreement.

PROCEDURE FOR THE AVOIDANCE OF TEACHERS' EMPLOYMENT DISPUTES

It is the joint responsibility of the Depute Chief Executive, and Education Services Professional Associations to avoid Employment disputes. This is done by ensuring that the joint consultative machinery established between the Teachers' Associations and the council is used whenever appropriate, and that where a dispute arises, the following procedure will be adopted:

- 1) It is incumbent upon both parties to this agreement that no restrictions, alterations in conditions of employment, or Employment action will be imposed by either party until the provisions of the procedure outlined below have been fully exhausted.
- 2) The Teachers' Association concerned is responsible for notifying the Depute Chief Executive of Education & Cultural Services of an Employment dispute or impending Employment dispute.
- 3) On receiving notification under 2 above the Depute Chief Executive will make arrangements for a meeting to be held within seven days between appropriate representatives of the council and representatives of the teachers' Association(s) concerned in order to:
 - identify and define the nature and causes of the dispute; and
 - endeavour to resolve the dispute.
- 4) Failure to agree under 3 above, the dispute will be referred to the council's Appeals Committee. The Committee will convene a hearing of the dispute with the appropriate teachers' Associations at the earliest opportunity, but within fourteen days of the referral.
- 5) If there is a failure to agree under 4 above, the dispute may be referred either jointly or separately to the disputes machinery of the appropriate national negotiating committee.
- 6) Action arising from a breakdown of negotiations at the appropriate national negotiating committees or Employment action called by an association at a national level and on a national scale will be outside this procedure.

