

**PERTH AND KINROSS COUNCIL**  
**JOINT NEGOTIATING COMMITTEE FOR TEACHING STAFF**  
**LOCAL AGREEMENT**

**Revised Disciplinary Framework for Teachers**

In terms of the Local Recognition and Procedure Agreement, it is accepted by all signatories acting on behalf of the Council and the recognised unions that this agreement is a binding local agreement effective from 29 April 2008. This supersedes relevant provisions within the National Agreement and constitutes a formal amendment to the terms and conditions of employment for teaching employees within Perth and Kinross Council.

John Fyffe, Executive Director (Education & Children's Services), on behalf of  
Perth and Kinross Council:

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Douglas Stewart (EIS), on behalf of Teachers' Trade Unions:

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# PERTH AND KINROSS COUNCIL

Joint Negotiating Committee for Teaching Staff – 29 April 2008

## Revised Disciplinary Framework for Teachers

Report by Executive Director of Education & Children's Services

### ABSTRACT

This report presents minor amendments to the revised disciplinary framework for teachers and grievance procedure for teachers

### 1. RECOMMENDATION(S)

1.1 It is recommended that the Committee:

- i) Approves the amendments to the revised disciplinary framework and grievance procedure for teachers
- ii) Instructs the Executive Director of Education & Children's Services to circulate the revised procedure to all staff through Head Teachers and to appropriate central staff.

### 2. BACKGROUND

2.1 The revised disciplinary framework and grievance procedure for teachers was previously approved at JNCT on 31 March 2003 and was adopted across Perth & Kinross from August 2003.

### 3. PROPOSALS

3.1 It is recommended that Perth & Kinross Council uses this opportunity to review and update the Council's disciplinary framework for teachers to ensure that it is consistent with the disciplinary procedure for single status employees and to mirror the ACAS code of practice. It is also recommended that Perth & Kinross Council uses this opportunity to update the Council's grievance procedure for teachers to reflect structural changes within Education & Children's Services.

### 4. CONSULTATION

4.1 These changes have been discussed and agreement reached at the JNCT sub-group.

## **5. RESOURCE IMPLICATIONS**

- 5.1 There will be no financial implications arising from the introduction of these revised procedures.

## **6. COUNCIL CORPORATE PLAN OBJECTIVES 2006-2010**

- 6.1 The Council's Corporate Plan 2006-2010 lays out five Objectives which provide clear strategic direction, inform decisions at a corporate and service level and shape resources allocation. They are as follows:-

- (i) A Safe, Secure and Welcoming Environment
- (ii) Healthy, Caring Communities
- (iii) A Prosperous, Sustainable and Inclusive Economy
- (iv) Educated, Responsible and Informed Citizens
- (v) Confident, Active and Inclusive Communities

- 6.2 This proposal related to the strategic priority of

- (i) A safe, secure and welcoming environment

- 6.3 This proposal also related to Perth & Kinross Council's HR Strategy and employee charter, continuous improvement and workplace relations.

## **7. EQUALITIES ASSESSMENT**

- 7.1 The Council's Corporate Equalities Assessment Framework requires an assessment of functions, policies, procedures or strategies in relation to race, gender and disability and other relevant equality categories. This supports the Council's legal requirement to comply with the duty to assess and consult on relevant new policies to ensure there is no adverse impact on any community group or employees.

- 7.2 The function, policy, procedure or strategy presented in this report was considered under the Corporate Equalities Assessment Framework and the determination was made that the items summarised in this report do not require further assessment as they do not have an impact on people's wellbeing.

- 7.3 The ACAS code of practice for disciplinary and grievance procedures includes a section on people with disabilities. An appropriate adjustment may be to allow an employee with a disability to have someone other than a member of a professional association/trade union or work colleague to represent or accompany them.

## 8. STRATEGIC ENVIRONMENTAL ASSESSMENT

- 8.1 Strategic Environmental Assessment (SEA) is a legal requirement under the Environmental Assessment (Scotland) Act 2005 that applies to all plans, programmes and strategies, including policies (PPS).
- 8.2 The plan, programme or strategy presented in this report was considered under the Environmental Assessment (Scotland) Act 2005 and the determination was made that the items summarised in this report do not require further action as they do not qualify as a plan, programme or strategy as defined by the Act.

## 9. CONCLUSION

- 9.1 The acceptance of this report will ensure consistency of approach for disciplinary and grievance matters across and within Perth & Kinross Council and will bring Perth & Kinross Council in line with the ACAS code of best practice.

**JOHN FYFFE**

Executive Director of Education & Children's Services

### Note:

No background papers, as defined by Section 50D of the Local Government (Scotland) Act 1973 (other than any containing confidential or exempt information) were relied on to any material extent in preparing the above report.

**Contact Officer:** For further information please contact Pauline Steel, Snr Personnel Officer, Human Resources on (01738) 475431 or by email, PSteel@pkc.gov.uk

**Address of Service:** Council Building, 2 High Street, PERTH, PH1 5PH

**Date:** 29 April 2008

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Council Text Phone Number 01738 442573

**PERTH & KINROSS COUNCIL**

**DISCIPLINARY PROCEDURE FOR TEACHERS**

**1 INTRODUCTION**

- 1.1 Where a teacher's performance or conduct is such as to give rise to serious concern, disciplinary action may be taken by the authority in accordance with this locally agreed disciplinary procedure. As the aim of the disciplinary procedure is to seek improvement in performance or conduct, assistance to enable improvement to occur is essential. These procedures conform with the National Disciplinary Framework for Scottish Teachers agreed through the Scottish Negotiating Committee for Teachers and issued as SNCT/1 8.

**2 PRINCIPLES**

- 2.1 Disciplinary rules and procedures are necessary for promoting orderly employment relations as well as fairness and consistency in the treatment of individuals. They enable organisations to influence the conduct of workers and deal with problems of poor performance and attendance thereby assisting organisations to operate effectively. Rules set standards of conduct and performance at work; procedures help ensure that the standards are adhered to and also provide a fair method of dealing with alleged failures to observe them.
- 2.2 All teachers should be made aware of the standards of conduct and performance expected of them. In particular teachers should be made aware of what constitutes gross misconduct for example, sexual offences, assault or dishonesty. Induction procedures for probationer teachers within schools should incorporate, as appropriate, advice and guidance to staff with regard to these issues. All problems involving minor misconduct and poor performance should be dealt with, at least in the first instance, through the use of informal advice, guidance and counselling. It is essential that all problems of this nature are fully discussed and that appropriate support is provided with the objective of encouraging and helping teachers to improve. It is essential also that teachers are aware that support and counselling are available at all times even where it has been necessary to take disciplinary action under the procedures. This support and counselling should be available to teachers within school but, if necessary, can include the involvement of centrally-based staff as appropriate.
- 2.3 Where the concern relates to the performance of an individual's teaching the procedures must comply with the General Teaching Council Scotland Code of Practice on Competence. Where the concern relates to the performance of an administrative or managerial function of a promoted post the procedures must comply with similar principles and processes as contained in the current GTCS Code of Practice of Teacher Competence (see Appendix 2).

- 2.4 If formal disciplinary process is considered necessary, the agreed procedure will comply with the following principles:
- (a) The initiation of disciplinary actions/sanctions should be accompanied by appropriate support mechanisms.
  - (b) No disciplinary action will be taken until the matter has been fully investigated and any decision, thereafter, to impose a disciplinary sanction must not be taken by the person who conducted the initial investigation. In addition, any appeal should not be heard by the same person who issued the disciplinary sanction.
  - (c) Apart from gross misconduct, no teachers shall be dismissed for the first breach of discipline.
  - (d) There shall be a right of appeal against all disciplinary sanctions.
  - (e) No disciplinary action will be initiated against a trade union representative until the matter has been discussed with a full-time official of the union concerned.
  - (f) A teacher shall have the right to be represented at all stages of the disciplinary process, including investigatory meetings, by a representative of a professional association/trade union recognised by the Council or a work colleague.

### **3 THE INVESTIGATORY STAGE**

- 3.1 In situations where either a complaint has been received or where a teacher's conduct or performance has given cause for concern, the authority will appoint an investigating officer. This should, normally, be a member of the Senior Management Team of the school in which the teacher is employed. The investigating officer should, if possible, interview all of the parties involved (including the teacher in question) and, if appropriate, prepare signed and dated statements from all of these witnesses. The investigating officer should then produce a report which will enable another representative of the authority (normally the headteacher of the school) to decide whether the matter should be further progressed through the formal disciplinary process. It is preferable that this decision is not taken by the investigating officer and the investigating officer must not have any function at a future disciplinary hearing other than presenting the facts of the investigation to that hearing. The teacher involved must be advised at an early stage that a complaint or concern has been lodged, of the nature of any complaint, of the process which will be followed and of the right to be represented. Where the complaint or concern relates to a headteacher the process will be conducted with the involvement of the appropriate Service Managers. In the case of teachers in small schools without a Senior Management Team advice should be sought from the Lead Officer (Staffing Services).
- 3.2 The investigatory process should be conducted as speedily as possible consistent with the principles of fairness and natural justice. In normal circumstances the investigation should take no longer than 20 working days.

- 3.3 All teachers should be entitled to be represented at all hearings and meetings as part of the disciplinary process including investigatory hearings by a representative of a professional association/trade union recognised by the Council or a work colleague. In addition, in most cases, the teacher whose conduct or performance has given rise to the investigation will be interviewed and must be given a clear indication of the nature and purpose of the investigation and the procedures that will be followed at the interview well in advance of any meeting with the investigating officer.
- 3.4 Once the investigation is completed the teacher should be advised of the outcome of the investigation. Where following an investigation no further action is to be taken in terms of the disciplinary procedures then all references to the investigation should be removed from the teacher's personal file and destroyed.
- 3.5 Precautionary suspensions should only be used in the most serious cases of misconduct or poor performance or where the teacher's presence at the normal place of work could prejudice the investigation. Decisions to suspend a teacher should only be taken after consultation between the headteacher and the Director of Education & Children's Services or his representative. This would normally be the Head of Education Services. Precautionary suspension must be on full pay and must not be associated with any assumption of guilt. All precautionary suspensions should be reviewed after a period of 10 working days and continued under review at such intervals. Consideration should be given to a temporary transfer pending the conclusion of the investigation and any subsequent disciplinary process as an alternative to precautionary suspension.

#### **4 THE DISCIPLINARY HEARING**

- 4.1 A decision to proceed with a disciplinary hearing should be based on the evidence secured during the investigatory stage but should not be taken by the person who conducted the investigation.
- 4.2 Once a decision has been taken to proceed to a disciplinary hearing, the teacher should be informed, in writing, about:
- details of the allegations
  - the date of the hearing
  - the procedures to be followed at the hearing
  - The teacher's rights under the disciplinary process, and provided with copies of the evidence that will be used during the disciplinary hearing including any written evidence and the names of any witnesses that will be called. The teacher should also provide similar evidence that will be led in his or her defence within a reasonable time before any hearing.

- 4.3 The teacher should be given adequate time to prepare his or her case, if necessary in conjunction with his or her representative, and adequate notice therefore requires to be given of any disciplinary hearing. No hearing should take place less than 5 working days from the notification of the calling of a disciplinary hearing.
- 4.4 At the conclusion of the hearing the disciplinary officer (see 5.3 and 5.4 below) shall either announce his/her decision (to be confirmed in writing thereafter) or indicate that the decision will be communicated in writing within a maximum of 5 working days.
- 4.5 If it is decided that no disciplinary action is to be taken, all references to the case shall be removed from the teacher's personal file and destroyed.

## **5 DISCIPLINARY SANCTIONS**

- 5.1 All disciplinary sanctions shall be recorded in writing and shall remain in the teacher's personal file but will be disregarded after the appropriate time limits. (see 7.2 below). In being advised of the disciplinary sanction which is being applied, the teacher should be advised also of the improvements which will be expected of them and the availability of appropriate support to allow them to achieve and maintain the improvement.
- 5.2 The following disciplinary sanctions shall be available:
- (a) Recorded Verbal Warning - For minor breaches of discipline, misconduct or continued poor performance, the warning must include reference to the fact that any further breach may render the teacher open to further disciplinary action.
  - (b) Written Warning - For more serious breaches of discipline, misconduct or continued poor performance or a failure to improve conduct or performance following receipt of a formal oral warning, the teacher must be warned that a further breach may result in further disciplinary action being taken.
  - (c) Final Written Warning - For serious breaches of discipline, misconduct or continued poor performance or a failure to improve conduct or performance following receipt of a written warning. The teacher must be warned that any further breach may result in dismissal.
  - (d) Dismissal -
    - (i) For serious repeated misconduct or poor performance during the currency of a final written warning or for gross misconduct for which no previous warning exists. The teacher must be informed in writing of the effective date of dismissal and whether the dismissal is summary or with notice.

(ii) The following punitive sanctions are available in conjunction with a final written warning as an alternative to dismissal: demotion, transfer or suspension of an increment. Where a teacher does not agree to the application of the punitive sanction then the Council will have no alternative but to dismiss the teacher.

5.3 The headteacher will have overall responsibility for the management of teachers within their school and will have the power to issue oral and written warnings.

5.4 The Director of Education and Children’s Services will have the power to apply all forms of disciplinary sanctions including the power of dismissal.

5.5 In cases involving performance issues the GTCS Code of Practice on Competence should be followed at all times. Before taking action for dismissal the Director of Education and Children’s Services must ensure that the Code has been followed.

## 6 APPEALS

6.1 Teachers will have the right of appeal against disciplinary sanctions imposed by the authority. Appeals should be heard as follows:

<b>Nature of Warning</b>	<b>Issued By</b>	<b>Appeal Heard By</b>
Recorded Verbal Warning	Headteacher or Nominee	Director of Education or Nominee
Written Warning	Headteacher or Nominee	Director of Education or Nominee
Final Written Warning	Director of Education or Nominee	Appeals Sub-Committee

6.2 Appeals against dismissal will be to the Appeals Sub-Committee comprising elected members of the Education & Children’s Services Committee. In cases of dismissal a teacher has a further right to submit a claim to an Employment Tribunal.

## 7 TIME LIMITS

### 7.1

<b>Aspects of Disciplinary Procedure</b>	<b>Time Limit (Working Days)</b>
Precautionary Suspension	10 days until each review
Notification of decision to proceed to disciplinary hearing	5 days notice minimum (shorter by agreement)
Notification of decision of disciplinary hearing	5 days (maximum)
Time limit to lodge appeal	10 days (maximum) from date of notification of decision of disciplinary hearing
Date of notification of appeal	Normally no later than 20 days from receipt of notice of appeal
Notification of outcome of appeal hearing	5 days (maximum)

### 7.2 Time limits for the duration of warnings will be –

Recorded Verbal Warning	6 Months
Written Warning	9 Months
Final Written Warning	15 Months

### 7.3 If an appeal is successful and the original disciplinary sanction withdrawn, any written reference shall be expunged from the teacher's personal file and the teacher notified accordingly.

## PERTH AND KINROSS COUNCIL

### GRIEVANCE PROCEDURE FOR TEACHERS

#### 1 INTRODUCTION

- 1.1 Every teacher has the right to seek redress for grievances relating to their employment in cases where normal management/employee communication has failed to resolve matters. Grievance procedures provide a mechanism through which problems in relation to work, the working environment or working relationships can be raised and addressed. These problems should be dealt with speedily and fairly before they can develop into major problems or, potentially, collective disputes.
- 1.2 The following procedures have been agreed through the Joint Negotiating Committee for Teachers. They comply with both the Employment Act 2002 and with the ACAS Code of Practice (Number 1) entitled 'Discipline and Grievance Procedures'.

#### 2 PRINCIPLES

- 2.1 It is good employment relations practice to provide all staff with a reasonable and prompt opportunity to obtain redress on any grievance. A complaint may be submitted individually or collectively by a group of employees and the same stages should be utilised in both cases. Teaching staff are entitled to be accompanied and represented at all stages in the grievance process by a representative of a professional association/trade union recognised by the Council or by a fellow employee.
- 2.2 It is neither possible nor desirable to specify all of the issues which may give rise to a grievance, but the main areas would include: terms and conditions of employment, health and safety issues, relationships at work, new working practices, organisational change and equal opportunities matters.
- 2.3 Teaching staff should be made aware of the terms of this local Grievance Procedure and have ready access to a copy of it within school.
- 2.4 Every effort should be made to resolve a grievance or potential grievance using informal mechanisms eg discussion with a senior colleague including, as appropriate, the head teacher or, through an informal approach, by a trade union representative. However, if informal methods do not succeed and the aggrieved party remains dissatisfied with the outcome or response, the formal procedure should be utilised.
- 2.5 Decisions in relation to a particular grievance should be taken, if possible, at

the lowest level within the hierarchy of stages at which the matter can be resolved. At school level this should be the head teacher. It is accepted however that a head teacher may not have the authority to sanction a particular resolution to a grievance which may be available to staff at, for example, directorate level. If a grievance is lodged in respect of the working relationship between a teacher and his/her head teacher or some action taken by a head teacher, the grievance will be passed for resolution to The Head of Education Services.

### **3 THE FORMAL GRIEVANCE PROCEDURE**

- 3.1 As already noted, every attempt should be made to resolve the matter through informal discussion and informal representation. The head teacher or other senior manager should respond as quickly as possible to an informal approach. This response may be delivered orally or in writing but must be within 5 working days of the complaint being raised. If the aggrieved party is dissatisfied with the response or if no response has been forthcoming the teacher should initiate the first stage of the formal procedure.
- 3.2 **Stage 1.** The teacher should submit a formal written statement of grievance to the head teacher, or to The Head of Education Services if the grievance relates to the head teacher or in those circumstances in which a head teacher would not have the necessary authority to effect a resolution. This statement should outline clearly the nature of the grievance and the resolution sought by the aggrieved party. The head teacher or Head of Education Services, as appropriate, will convene a formal grievance hearing within 10 working days (or otherwise by mutual agreement) of receipt of the written statement of grievance. The teacher will have the right to be represented at the hearing and to call relevant witnesses if required. The head teacher or Head of Education Services will normally respond in writing to the formal statement of grievance within 5 working days of the date of the hearing. In circumstances where it is necessary for the head teacher or Head of Education Services to carry out further investigation into the issues raised in the grievance it may not be possible to adhere to this timetable and the parties concerned should discuss and reach mutual agreement on an appropriate extension of time.
- 3.3 **Stage 2.** Should the teacher be dissatisfied with the decision of the head teacher or Head of Education Services there shall be a right of appeal to the Executive Director of Education & Children's Services. A statement of appeal must be submitted in writing within 10 working days of receipt of the head teacher's decision explaining the reasons for continuing dissatisfaction. The Executive Director or nominee – usually The Head of Education Services, will convene a formal appeal hearing within 10 working days of receipt of the written statement of appeal. The teacher's rights with respect to formal representation will apply at the appeal hearing. The Executive Director or nominee shall respond in writing to the aggrieved teacher within 5 working days of the date of hearing. If the initial grievance hearing was convened by The Head of Education Services any subsequent appeal should be convened by the Executive Director or nominated officer.

- 3.4 **Stage 3.** If the teacher remains dissatisfied with the response following the appeal hearing at directorate level there shall be a further right of appeal to the Appeals Sub-Committee of the Education & Children's Services Committee. of the receipt by the teacher of the decision in relation to the initial appeal. This hearing should be convened within 20 days of the receipt of the written statement of continuing dissatisfaction. The decision of the Appeals Sub-Committee should be provided in writing within 5 working days of the date of the hearing.
- 3.5 **Stage 4.** The final decision of the Appeals Sub-Committee can be submitted to the Joint Secretaries of the Scottish Negotiating Committee for Teachers through its appeals process but only if the subject matter of the original grievance relates to the interpretation or implementation of a national agreement promulgated by the SNCT (see Appendix 2).

#### **4 THE CONDUCT OF FORMAL GRIEVANCE AND APPEAL HEARINGS**

- 4.1 teacher must be given every opportunity to present evidence in support of his/her grievance and the teacher and/or representative can call witnesses, submit additional written information and/or use verbal presentation. In addition, the head teacher or Executive Director's nominee (with advice from an appropriate Human Resources officer or other professional adviser) must be given every opportunity to justify a decision which is subject to appeal. Where possible, the officer providing advice to the Executive Director or the Executive Director's nominee should be different from the officer who provided advice to the head teacher or Head of Education Services at an earlier stage.

#### **5 OTHER PROVISIONS**

- 5.1 **Status Quo Ante.** In the event of a formal grievance being lodged in response to a proposed change to terms and conditions of employment and when practicable, where a grievance has been lodged in response to changes to working practices or organisational structures, no change shall be made to the relevant terms and conditions of employment until the agreed grievance procedures have been exhausted.
- 5.2 **Withdrawal.** The aggrieved teacher may at any stage withdraw from these procedures by giving notice in writing. In these circumstances the teacher will be deemed to have abandoned the grievance

## 6 Formal Grievance Stages

### The Grievance Stages, Appeals and Time Limits

Stage	Heard By	Time Limit
1	Head teacher or Lead Officer – Staffing	10 working days to arrange formal hearing. 5 working days to issue written response.
2	Director's nominee or Director/Depute Director	10 working days to arrange appeal hearing. 5 working days to issue written response.
3	Appeals Sub-Committee	20 working days to arrange appeal hearing. 5 working days to issue written response.
4	SNCT	Determined by SNCT

## 7 APPEALS TO THE SCOTTISH NEGOTIATING COMMITTEE FOR TEACHERS

- 7.1 If a teacher considers that he/she has a dispute with the employing authority regarding the application and/or interpretation of the national agreement on salaries and conditions of service, he/she must exhaust the employing authority's internal procedures in the first instance.
- 7.2 If a teacher is dissatisfied with the outcome of the employing authority's procedures, then he/she may ask for the case to be considered by the Joint Secretaries representing the Employers' side and the Teachers' side of the SNCT.
- 7.3 The Joint Secretaries, representing the Employers' Side and the Teachers' Side, will consider whether the employing authority has complied with and/or properly interpreted the national agreement on salaries and conditions of service and has taken account of all the relevant factors. If the Joint Secretaries are not satisfied that the employing authority has acted correctly or appropriately, it will refer the matter back to the employing authority with appropriate advice. If this advice or mediation by the Joint Secretaries does not resolve the matter, or if there is a failure to agree, the Joint Secretaries will refer the case to an Appeals Panel of the SNCT.
- 7.4 The decision of the Appeals Panel will be final and binding on all parties to the appeal.