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 **Education Procedure Manual 2/19**

 **Grievance Procedures**

 **for**

 **Teachers and Employees on Scottish Negotiating**

 **Committee for Teachers (SNCT) Conditions of Service**

**Passed at EDC Local Negotiating Committee for Teachers (LNCT) - 28 May 2015**

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**APPENDIX 1 Toolkit for Managers**

* **Standard Letters**
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**Monitoring and Review**

This policy will be reviewed in accordance with:

 Legislative change

 Changes to SNCT national conditions of service

 Other external factors

 Feedback on the effectiveness of the policy

 Requests for review by Elected Members, Trade unions and/or Management.

**Alternative Formats**

All Education Procedure Manuals can be found on The Hub and EDC Website. The Procedure Manual and the associated Appendix can also be made available, on request, in a variety of formats. These can be requested from the Customer Services and Transformation team by contacting 0141 578 8471. Information will be made available in accordance with the Council’s Accessible Information Policy.

**1.0 INTRODUCTION**

1.1 Every employee has a right to seek redress for grievances relating to their employment.

1.2 It is neither possible nor desirable to specify every issue which may give rise to a grievance, but the main areas would include: terms and conditions; health and safety; relationships at work; new working practices; organisational change and equal opportunities matters.

1.3 The following matters are excluded from the Grievance Procedures

* Matters dealt with under SNCT Disciplinary Framework and EDC Education Procedure Manual 2/18: Disciplinary Procedures for Teachers and Employees on SNCT Conditions of Service
* Matters which are already subject to fact finding
* Allegations covered by the Council Whistleblowing policy
* Matters relating to the PRD process
* Matters relating to Flexible Working Requests
* Any matter relating to terms and conditions regulated by the SNCT except where thegrievance

relates to the interpretation or application of a part of the provision to an individual employee

* Complaints relating to statutory sick pay scheme
* Complaints relating to the Scottish Public Pensions Agency
* Matters outwith the scope or responsibility of the council

1.4 Grievances received which are ‘excluded’ (as defined in paragraph 1.3) will be deemed ‘not competent’ and will not be considered under the Grievance Procedure.

1.5 This Procedure Manual provides a mechanism whereby problems in relation to work, the working environment or working relationships can be raised and addressed. These problems should be dealt with speedily, fairly and consistently before they can develop into major problems or, potentially, collective disputes.

1.6 Teachers and employees on Scottish Negotiating Committee for Teachers (SNCT) Conditions of Service should be made aware of the terms of this Procedure Manual relating to grievance. They should also have access to a copy of it.

1.7 Two or more employees who share a common grievance arising from the same circumstances shall be entitled to pursue their grievance in common by means of these procedures. Individual and group grievances will be dealt with using the same procedures and including the same stages.

1.8 If an employee raises a grievance during a disciplinary process, there may be a requirement to suspend the process temporarily to deal with the grievance. Where the grievance and the disciplinary cases are related it may be appropriate to deal with both at the same time.

1.9 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.

1.10 The aggrieved employee may at any stage withdraw from these procedures by giving notice in writing. In these circumstances the employee will be deemed to have abandoned the grievance.

1.11 Advice and support on these procedures are available from an HR Business Partner.

1.12 The term ‘teachers’ will be used thoughout this Procedure Manual to refer to all employees on SNCT Conditions of Service.

**2.0 PRINCIPLES**

2.1 In addition to the principles of natural justice, these procedures are informed by the following:

* Scottish Negotiating Committee for Teachers (SNCT) Handbook of Conditions of

 Service: Grievance Framework

* East Dunbartonshire Council: Grievance at Work Policy and Procedures
* Advisory, Conciliation and Arbitration Service (ACAS) Disciplinary and Grievance

 Procedures Code of Practice

2.2 All grievances should be dealt with quickly, fairly, consistently and within agreed time limits, as specified in the table at section 9.0.

2.3 Every effort should be made to resolve a grievance, or potential grievance, using informal mechanisms – for example, discussion with a senior colleague, through an informal approach by a trade union representative or through mediation. However, if informal methods do not succeed and the aggrieved party remains dissatisfied with the outcome or response, the formal procedure should be utilised.

2.4 Decisions relating to a grievance should be taken at the lowest appropriate level within the hierarchy of stages at which the matter can be resolved, as specified in the table at section 9.0.

2.5 Any grievance hearing will be conducted by a manager not involved in the matter giving rise to dispute.

2.6 Employees have the right to be accompanied at all stages in the grievance process. A companion may be a fellow worker or a trade union official. A representative acting in a legal capacity will not be considered an appropriate companion throughout internal procedures. It is the employee’s responsibility to make arrangements to ensure they are accompanied if they so desire.

**3.0 INFORMAL APPROACH**

3.1 Every attempt should be made to resolve the matter through eg informal discussion or through informal representation by a trade union official.

3.2 A teacher or group of teachers feeling aggrieved on any matter covered by this

Procedure Manual should discuss the matter with the Head Teacher.

3.3 In the case of a Head Teacher being aggrieved, the matter should be discussed with the Chief Education Officer.

3.4 If the grievance is against a Head Teacher, the matter should be discussed with the Chief Education Officer.

3.5 The Head Teacher or the Chief Education Officer, as appropriate, should respond within 5 days to an informal approach, not necessarily in writing. Where delay occurs, all parties involved will be informed of the reason for the delay and a revised timeframe will be given.

3.6 If the aggrieved party is dissatisfied with the response or if no response has been forthcoming within 5 working days, or where there has been no communication of delay as per paragraph 3.4, the employee may initiate the first stage of the formal Grievance Procedure.

**4.0 THE FORMAL GRIEVANCE PROCEDURE** **STAGE 1**

***SUBMISSION OF GRIEVANCE TO HEAD TEACHER***

4.1 The employee should complete a formal written statement of grievance, using the **Notification of Grievance Form (Standard Form PM/2/19/1)**, contained within the **Toolkit for Managers**, attached as Appendix 1.

4.2 The information provided in the Notification of Grievance Form should outline clearly the nature of the grievance, informal action already taken and reference to the resolution sought by the aggrieved party.

4.3 Employees can contact the Employee Relations Team for assistance in completing the form.

4.4 The Notification of Grievance Form should be submitted to the Head Teacher or the Chief Education Officer as appropriate.

4.5 There may be circumstances where it would not be appropriate for the Head Teacher to hear the grievance at Stage 1, in which case the grievance should be submitted directly to the Chief Education Officer.

4.6 It may be that the Head Teacher does not have the power or authority to sanction solution to a grievance that may be available at, for example, a higher level.

4.7 Where the Head Teacher is the aggrieved party, the Notification of Grievance Form should be submitted to the Chief Education Officer.

***NOTIFICATION OF THE GRIEVANCE HEARING***

4.8 The purpose of a grievance hearing is to allow the employee to present their case and propose the way they see the issue being resolved.

4.9 The Head Teacher or the Chief Education Officer (or nominee), as appropriate, will convene a formal grievance hearing within ten working days (or otherwise by mutual agreement) of receipt of the Notification of Grievance Form. Where delay occurs, all parties involved will be informed of the reason for the delay and a revised timeframe will be given.

4.10 In certain cases there may be a need for a grievance hearing to be postponed to establish the facts of the case. In such circumstances, continued communication with the employee is essential.

4.11 If there is a requirement to establish and/or clarify the facts surrounding a grievance, the Head Teacher or the Chief Education Officer (or nominee), as appropriate, should conduct a fact finding using the appropriate **Fact Finding** paperwork, contained in **The Toolkit for Managers**, attached as Appendix 1.

4.12 The employee should be informed, in writing, using **Standard Letter PM2/19/2**, contained in **The Toolkit for Managers**, attached as Appendix 1, about:

* the date, time and venue for the grievance hearing
* the procedures to be followed at the grievance hearing;
* the right to be accompanied by a companion..

***THE FORMAT OF THE GRIEVANCE HEARING***

4.13 In the interests of consistency, a standard format for grievance hearings will be followed. **Guidance** on the **Format of Formal Grievance Hearings** is contained in the **Toolkit for Managers**, attached as Appendix 1.

4.14 The employee has the right to be accompanied at the hearing. A companion may be a fellow worker or a trade union official. A representative acting in a legal capacity will *not* be considered an appropriate companion throughout internal procedures. It is the employee’s responsibility to make arrangements to ensure they are accompanied, if they so desire.

4.15 A written record of the hearing will be taken. No electronic recording devices will be permitted in the course of any hearings.

4.16 The Head Teacher or the Chief Education Officer (or nominee), as appropriate, must appoint a note taker to the grievance hearing. He/she must not be involved in the allegation, incident or complaint. The purpose of note taking is to summarise what is discussed at the meetings. The note should be a true reflection of the content of the meeting but will not be a verbatim report. Some advice on effective note taking is included within the **Guidance** in **The Toolkit for Managers,** attached as Appendix 1**.**

4.17 The employee must be given every opportunity to present evidence in support of his/her grievance and the employee and/or representative can call witnesses, submit additional written information and/or use verbal presentation.

4.18 The Head Teacher or the Chief Education Officer (or nominee), as appropriate, with advice from an appropriate HR Business Partner or other professional adviser, must be given every opportunity to justify a decision which is subject to appeal.

4.19 It may be appropriate to take an adjournment to allow any mitigating factors or further information to be addressed. Further information on adjournments is included within the **Guidance** in **The Toolkit for Managers,** attached as Appendix 1**.**

***OUTCOME OF THE HEARING***

4.20 After consideration of all information presented and any fact finding which has been carried out, the Head Teacher or the Chief Education Officer (or nominee) hearing the grievance may take the following action :

* Uphold the grievance
* Uphold the grievance in part
* Not to uphold the grievance

4.21 The outcome of the hearing, together with the reasons for the decision and the right to appeal, should be confirmed to the employee in writing, using **Standard Letter PM2/19/3** contained in **The Toolkit for Managers** **,** attached as Appendix 1**.**

4.22 This confirmation will normally be sent to the employee within 5 working days. Where delay occurs, all parties involved will be informed of the reason for the delay and a revised timeframe will be given.

***RIGHT TO APPEAL***

4.23 If an employee feels that the issue has not been resolved satisfactorily though the Stage 1 Grievance Hearing, he/she has the right to appeal.

4.24 A **Notification of Grievance Appeal Form (Standard Form PM2/19/4)**, contained in **The Toolkit for Managers,** attached as Appendix 1**,** should be included with the letter informing the employee of the outcome of the grievance hearing.

**5.0 THE FORMAL GRIEVANCE PROCEDURE STAGE 2**

***SUBMISSION OF GRIEVANCE APPEAL TO THE CHIEF EDUCATION OFFICER***

5.1 The employee should complete a formal written statement of appeal, using the **Notification of Grievance Appeal Form (Standard Form PM2/19/4)**,, contained within the **Toolkit for Managers**, attached as Appendix 1.

5.2 The information provided in the Notification of Grievance Appeal Form should outline clearly the reasons for continuing dissatisfaction and reference to the resolution sought by the aggrieved party. This is in accordance with SNCT Conditions of Service.

5.3 Employees can contact the Employee Relations Team for assistance in completing the form.

5.4 The employee should submit the completed form to the Chief Education Officer within ten working days of receipt of the letter confirming the outcome of the hearing.

***NOTIFICATION OF THE GRIEVANCE APPEAL HEARING***

5.5 The Chief Education Officer (or nominee) will convene a formal grievance appeal hearing within ten working days (or otherwise by mutual agreement) of receipt of the written statement of grievance appeal. Where delay occurs, all parties involved will be informed of the reason for the delay and a revised timeframe will be given.

5.6 The employee will be given at least 5 working days notice of the grievance appeal hearing taking place. .

5.7 The employee should be informed, in writing, using **Standard Letter PM2/19/3**, contained in the **Toolkit for Managers**, attached as Appendix 1, about:

* the date, time and venue for the grievance appeal hearing
* the procedures to be followed at the grievance appeal hearing;
* the right to be accompanied by a companion..

***THE FORMAT OF THE GRIEVANCE APPEAL HEARING***

5.8 In the interests of consistency, a standard format for grievance appeal hearings should be followed. **Guidance** on the **Format of Formal Grievance Appeal Hearings** is contained in the **Toolkit for Managers**, attached as Appendix 1.

5.9 The employee has the right to be accompanied at the grievance appeal hearing. A companion may be a fellow worker or a trade union official. A representative acting in a legal capacity will *not* be considered an appropriate companion throughout internal procedures. It is the employee’s responsibility to make arrangements to ensure they are accompanied, if they so desire.

5.10 A written record of the grievance appeal hearing will be taken. No electronic recording devices will be permitted in the course of any hearings.

5.11 The Chief Education Officer (or nominee) must appoint a note taker to the grievance appeal hearing. He/she must not be involved in the allegation, incident or complaint. The purpose of note taking is to summarise what is discussed at the meetings. The note should be a true reflection of the content of the meeting but will not be a verbatim report. Some advice on effective note taking is included within the **Guidance** in **The Toolkit for Managers,** attached as Appendix 1**.**

5.12 The employee must be given every opportunity to present evidence in support of his/her appeal and the employee and/or representative can call witnesses, submit additional written information and/or use verbal presentation.

5.13 The Chief Education Officer (or nominee), with advice from an appropriate HR Business Partner or other professional adviser, must be given every opportunity to justify a decision which is subject to appeal.

5.14 Where possible, the HR Business Partner/other professional adviser providing advice to the Chief Education Officer (or nominee) should be different from the officer who provided advice to the Head Teacher at an earlier stage of the Grievance Procedures.

5.15 It may be appropriate to take an adjournment during the grievance appeal hearing.. Further information on adjournments is included within the **Guidance** in **The Toolkit for Managers,** attached as Appendix 1**.**

***OUTCOME OF THE GRIEVANCE APPEAL HEARING***

5.16 After consideration of all the information presented, the Chief Education Officer (or nominee) hearing the grievance appeal may take the following action :

* Uphold the grievance
* Uphold the grievance in part
* Not uphold the grievance

5.17 The outcome of the appeal, together with the reasons for the decision and the right to a further appeal, should be confirmed to the employee in writing, using **Standard Letter PM2/19/5,** contained in **The Toolkit for Managers** **,** attached as Appendix 1**.**

5.18 This confirmation will normally be sent to the employee within 5 working days . Where delay occurs, all parties involved will be informed of the reason for the delay and a revised timeframe will be given.

***RIGHT TO APPEAL***

5.19 If the employee remains dissatisfied with the response from the Chief Education Officer (or nominee), there shall be a right of appeal to the Education Appeals Board.

**6.0 THE FORMAL GRIEVANCE PROCEDURE STAGE 3**

***SUBMISSION OF GRIEVANCE APPEAL TO THE EDUCATION APPEALS BOARD***

6.1 The employee should complete a formal written statement of appeal, using the **Notification of Grievance Appeal Form (Standard Form PM2/19/4)**, contained within the **Toolkit for Managers**, attached as Appendix 1.

6.2 The information provided in the Notification of Grievance Appeal Form should outline clearly the reasons for continuing dissatisfaction and reference to the resolution sought by the aggrieved party.

6.3 Employees can contact the Employee Relations Team for assistance in completing the form.

6.4 The employee should submit the completed form to the Education Appeals Board (as indicated on the Notification of Grievance Appeal form) within ten working days of receipt of the letter confirming the outcome of the appeal hearing.

6.5 A hearing will be arranged in line with the Education Appeals Board timetable and, where possible, this will be within 20 working days (or otherwise by mutual agreement) of receipt of the written statement of grievance appeal. Where delay occurs, all parties involved will be informed of the reason for the delay and a revised timeframe will be given.

6.6 Details about the date, time, location and format of the appeal hearing will be communicated to the employee.

6.7 After consideration of all the information presented, the Education Appeals Board, hearing the grievance appeal may take the following action :

* Uphold the grievance
* Uphold the grievance in part
* Not uphold the grievance

6.8 The outcome of the appeal together with the reasons for the decision should be confirmed to the employee in writing using **Standard Letter PM2/19/6,** normally within 5 working days . Where delay occurs, all parties involved will be informed of the reason for the delay and a revised timeframe will be given.

6.9 This completion of Stage 3 marks the conclusion of the internal Grievance Procedures.

**7.0 THE FORMAL GRIEVANCE PROCEDURE STAGE 4**

***SUBMISSION OF GRIEVANCE APPEAL TO THE SNCT***

7.1 The final decision of the local 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 promulgated by the SNCT (see SNCT Handbook of Conditions of Service Part Two, Appendix 2.14: The SNCT Appeals Procedure). A copy of this is contained in the **Toolkit for Managers**, attached as Appendix 1.

**8.0 A MODIFIED GRIEVANCE PROCEDURE**

8.1 A modified two step grievance procedure can be used in circumstances where the employment has already terminated.

8.1.1 Step 1. The employee must set out, in writing, the grievance and the grounds for the grievance and send the statement to the council.

8.1.2 Step 2. The council must send its response, in writing, to the employee. Once this response has been sent, the Grievance Procedure is concluded.

**9.0 THE FORMAL GRIEVANCE STAGES, APPEALS AND TIME LIMITS**

|  |  |  |
| --- | --- | --- |
| **Stage** | **Grievance Heard by** | **Timescale** |
| 1 | Head Teacher  | 10 days to arrange formal hearing5 days to issue written response |
| 2 | The Chief Education Officer (or nominee)  | 10days to arrange appeal hearing5 days to issue written response |
| 3 | Education Appeals Board | 20 days to arrange appeal hearing5 days to issue written response |
| 4 | SNCT *(Only applicable to matters relating to national agreements.)*  | See SNCT Handbook Conditions of Service, Part 2, Appendix 2.14 for SNCT Appeals Procedure |