



THE MORAY COUNCIL EDUCATION AND SOCIAL CARE

PROCEDURE FOR SETTling GRIEVANCES – TEACHING STAFF AND ASSOCIATED PROFESSIONALS

8 December 2011

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1.0 SCOPE OF THE PROCEDURE

- 1.1 The procedure will apply to all teachers and Associated Professionals within the Council covered by the Scottish Negotiating Committee for Teachers [SNCT]. This comprises Music Instructors, Educational Psychologists, Senior Educational Psychologists, Depute Principal Educational Psychologists, Principal Educational Psychologists, Education Support Officers, Quality Improvement Officers and Quality Improvement Managers.
- 1.2 In agreeing to the introduction of this procedure, both the Council and the Trade Unions have taken account of the provisions of the revised grievance framework, provided by the SNCT.
- 1.3 Hereinafter, the term “teachers” will encompass all those staff detailed in para 1.1 above.

2.0 INTRODUCTION

- 2.1 Every teacher has a right to seek redress for grievances relating to their employment.
- 2.2 Grievance procedures provide 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 fairly and within a reasonable timescale before they develop into major problems or, potentially, collective disputes.

3.0 PRINCIPLES

- 3.1 It is good employment relations practice to provide all staff with a reasonable and prompt opportunity to obtain redress on any grievance. The process applies equally to groups of teaching staff and the same stages should be utilised as for individual grievances.
- 3.2 Teaching staff have the right to be accompanied at all stages in the grievance process and this framework complies with the guidance in relation to the provision of a grievance procedure.
- 3.3 Apart from dealing with grievances quickly and fairly, decisions in relation to a particular grievance should be taken, where possible, at the lowest level within the hierarchy of stages at which the matter can be resolved. It is accepted, for example, that a Head Teacher may not have the power or authority to sanction a particular resolution to a grievance which may be available to staff at, for example, directorate level.
- 3.4 It is neither possible nor desirable to specify precisely all of the issues 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.
- 3.5 Every effort should be made to resolve a grievance using informal mechanisms – eg discussion with a senior colleague 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.
- 3.6 These approaches should be made promptly and normally no later than twelve weeks following an incident/decision/act from which the grievance arises.

- 3.7 It is recognised that it is in the interests of all parties that all procedures connected with this process are exercised as expeditiously as possible.
- 3.8 Teaching staff should be made aware of the terms of this agreed Moray Grievance Procedure and have ready access to a copy of it.

4.0 TIMESCALES

- 4.1 In the interests of fairness to all parties involved in any grievance matter and in order to ensure a speedy resolution to the issues raised, it is important that the timescales outlined in the procedures are adhered to.
- 4.2 However, it is accepted that there may be occasions when, in exceptional circumstances, this may not always be possible.
- 4.3 Any meetings and/or the grievance hearing itself must be held within six weeks of the date on which the grievance was first lodged within the formal stages of the procedure.

In the event of the long term sickness absence of the employee who has raised the grievance, their chosen representative shall, by agreement, represent them at any meeting and/or hearing unless the employee is fit to attend for the purpose of trying to resolve the matter albeit not fit to attend normal duties. Where an employee chooses not to be represented or is unable to attend they will have the opportunity to submit any information in writing to the person responsible for holding the meeting/hearing.

In the event of the long term sickness absence of the relevant manager, another manager within the department who is familiar with the issues involved in the grievance shall attend the meeting/hearing on their behalf.

In the event of the sickness absence of any witness involved in the grievance, a decision will be made by the person responsible for holding the meeting/hearing as to whether the witness is material to the case. This decision will be taken in consultation with Human Resources. If the witness is material to the case, then their evidence/information should be presented by their chosen representative, or submitted in writing to be considered at the meeting/hearing. If not, then the meeting/hearing should proceed in their absence.

5.0 PROCEDURE

Informal

- 5.1 Every attempt should be made to resolve the matter through informal discussion, mediation or through informal representation by a Trade Union official etc. The Head Teacher or other senior manager should respond as quickly as possible to an informal approach. Where the informal approach is made in writing then the response should be in writing. If, however, the aggrieved party is dissatisfied with the response or if no response has been forthcoming within ten working days, the teacher may initiate Stage 1 of the formal Grievance Procedure. Any member of senior management who has been involved in decision making at the informal stage must not chair any hearings at any subsequent formal stages.

Stage 1

Formal

- 5.2.1 The teacher should complete Grievance Procedure Form (ESG75) (Appendix 1) and submit it to the Head Teacher. Where the grievance is against the Head Teacher the form should be submitted to Corporate Director (Education and Social Care). The teacher should

outline clearly the nature of the grievance and should, where possible, make reference to the resolution sought.

5.2.2 A hearing will be arranged and chaired by the Head Teacher or a nominated representative of the Corporate Director (Education and Social Care) or the Corporate Director (Education and Social Care) as appropriate. The appropriate member of senior management must consult with Departmental Directorate and Human Resources in the event of any hearing being proposed. The manager should contact Human Resources for advice and guidance at this stage.

5.2.3 Conduct of Grievance Hearing

- (a) The hearing will be chaired by an appropriate member of senior management who should seek to arrange a date suitable to all relevant parties within allocated timescales.
- (b) All relevant information and documents must be submitted to the Chairperson not less than five days before the hearing.
- (c) The Chairperson will arrange for an appropriate member of staff to prepare a Minute of the hearing detailing the main issues raised, the decision reached and reasons for this decision. In attendance shall be the aggrieved person[s], their representative[s], the person[s] against whom the grievance has been brought and their representative[s]. Before hearing the grievance the Chairperson shall consider after consultation where appropriate with the interested parties and/or their representative(s), whether or not it is necessary to request the presence of other appropriate person(s) (eg someone with appropriate specialist knowledge) at the hearing. The final decision of who does attend shall be the Chairperson's.
- (d) The aggrieved person and/or his/her representative shall be given an opportunity to present evidence in support of his/her grievance.
- (e) The person(s) against whom the grievance has been brought and/or his/her representative will be given an opportunity to question and/or seek clarification from the aggrieved person.
- (f) The person(s) against whom the grievance has been brought, and/or his/her representative, shall be given an opportunity to present evidence in support of his/her case.
- (g) The aggrieved person and/or his/her representative shall be given an opportunity to question and/or seek clarification from the person against whom the grievance has been brought.
- (h) The Chairperson may seek clarification from any person present.
- (i) Both parties will have the opportunity to make final submissions, with the person bringing the grievance having the opportunity to make the closing submission. Such submissions shall only refer to information or matters previously mentioned during the hearing.
- (j) The Chairperson will respond in writing within ten working days of the date of the hearing.

5.3 Stage 2

- 5.3.1 Where the grievance is against the Corporate Director (Education and Social Care), it should be submitted to the Chief Executive. Where the grievance is against the Head Teacher the form should be submitted to Corporate Director (Education and Social Care).
- 5.3.2 Should the teacher be dissatisfied with the outcome of the Stage 1 process, he/she has the right to appeal to the Corporate Director (Education and Social Care).
- 5.3.3 A Statement of Appeal must be completed on Form ESG76 (Appendix 2) and submitted to the Corporate Director (Education and Social Care) within ten working days of receipt of the Stage 1 decision.
- 5.3.4 An agreed date for the appeal hearing should be reached within ten working days of the receipt of an appeal. Such hearings shall be arranged as expeditiously as possible and not normally later than thirty working days from the date of the receipt of the appeal.
- 5.3.5 The Appeal Hearing will consider whether the Grievance Procedures have been carried out fairly and properly. It will also consider whether the manager concerned acted reasonably in arriving at the decision reached in response to the grievance raised given the evidence available to him/her. Such submissions shall refer only to information or matters previously mentioned during the original hearing. It will only be possible to introduce new information or matters ("new evidence") not canvassed at Stage 1 of the procedure where it was not reasonably practicable to submit this evidence at the time of the original hearing. The Chairperson shall have the sole discretion as to whether to permit introduction of new evidence.
- 5.3.6 Conduct of Grievance Appeal Hearing
- (a) The hearing will normally be chaired by the Corporate Director (Education and Social Care), or nominee. In attendance shall be the aggrieved person[s], their representative[s], the person[s] against whom the grievance has been brought and their representative[s].
 - (b) A representative of The Moray Council Legal Services will be present in the capacity of legal adviser to the Chairperson and a representative of Human Resources may also be present in the capacity of Human Resources adviser. The Chairperson will be responsible for arranging a Minute of the Appeal Hearing.
 - (c) The Chairperson, before hearing the grievance shall consider, following joint consultation with the interested parties and/or their representative, whether or not it is necessary to request the presence of other appropriate person(s) at the hearing. The Chairperson will have the final decision of who attends.
 - (d) The aggrieved person and/or his/her representative shall be given an opportunity to present his/her case in support of his/her appeal.
 - (e) The person against whom the appeal has been brought, or his/her representative, shall have the opportunity to question and/or seek clarification from the other party.
 - (f) The person(s) against whom the appeal has been brought, or his/her representative, shall be given an opportunity to present his/her case.
 - (g) The aggrieved person(s) and/or his/her representative shall be given an opportunity to question and/or seek clarification from the other party.
 - (h) The Chairperson may seek clarification from any person present.

- (i) Both parties will have the opportunity to make final submissions, with the person raising the appeal having the opportunity to make the closing submission. Such submissions shall only refer to information or matters previously mentioned during the hearing.
- (j) The Chairperson will respond in writing within ten working days of the date of the hearing.

5.4 Stage 3

- 5.4.1 If the grievance is not satisfactorily resolved at Stage 2 or no decision is reached within the time specified, the matter may be referred to the Educational Services Grievance and Disciplinary Appeals Sub-Committee of the Council for consideration. A referral to the Appeals Committee should be submitted in writing to the Head of Legal and Democratic Services or equivalent within fourteen days of confirmation of the decision at Stage 2, specifying the grounds of appeal.
- 5.4.2 The Head of Legal and Democratic Services, or equivalent, will notify both the Head of Department concerned and the Head of Human Resources of any appeal lodged, immediately upon receipt of the notification to appeal. The Head of Human Resources will then contact both parties involved, ie the employee(s) or nominated Trade Union representative and the Head of Department concerned to request the submission of the details of their case, in order to prepare the necessary papers for the Appeals Committee meeting. With the agreement of both parties, the Head of Human Resources shall arrange for mediation to take place with a view to resolving the grievance without recourse to Committee. Agreement as to the date of an appeal hearing shall normally be reached within twenty working days of the receipt of the referral, or termination of mediation, taking account of the agreed Committee cycle.
- 5.4.3 The Appeal Hearing will consider whether the Grievance Procedures have been carried out fairly and properly. It will also consider whether the manager concerned acted reasonably in arriving at the decision reached in response to the grievance raised given the evidence available to him/her. Such submissions shall refer only to information or matters previously mentioned during the previous stages. In particular, it shall be possible to introduce new information or matters (“new evidence”) not canvassed at Stage 1 or 2 of the procedure only where it was not reasonably practicable to introduce that new evidence sooner. The Chairperson shall have the sole discretion as to whether to permit introduction of new evidence
- 5.4.4 The Educational Services Grievance and Disciplinary Appeals Sub-Committee will hear the appeal in accordance with the agreed procedure. Membership of this Committee consists of five Elected Members supported by Legal and Human Resources advisers.

5.5 Stage 4

- 5.5.1 The final decision of the local authority can be submitted to the Joint Secretaries of the Scottish Negotiating Committee for Teachers 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 Appendix 2.14 of the SNCT Handbook – the SNCT Appeals Procedure).

6.0 **GENERAL PROVISION**

- 6.1 In the event of an issue being pursued by an employee(s), it may be requested that the status quo be maintained.

The status quo shall be maintained where management wish to implement a decision which would mean departing from an existing agreement or established practice and the

employee(s) concerned objects to that decision. In this situation there shall be an obligation on management to postpone the implementation of the decision until agreement has been reached or the grievance procedure has been exhausted.

Management can continue to implement their decision where the decision is within the framework of an existing agreement or established practice (eg an office move). In this situation there shall be no obligation on management to postpone the implementation of the decision until agreement has been reached or the grievance procedure has been exhausted.

6.2 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.

6.3 Collective Grievances – Two or more teachers who share a common grievance arising from the same circumstances shall be entitled to pursue their grievance in common by means of the procedures outlined above.

7.0 THE GRIEVANCE STAGES, APPEALS AND TIME LIMITS SUMMARY

Stage	Heard By	Time Limits
1	Head Teacher or member of Education and Social Care Senior Management Team nominated by Corporate Director (Education and Social Care)	Ten working days to arrange a formal Hearing. Ten working days to issue written response.
2	Corporate Director (Education and Social Care) or nominee	Ten working days to arrange an Appeal Hearing. Ten working days to issue written response.
3	The Moray Council Educational Services Grievance and Disciplinary Appeals Sub-Committee	Twenty working days to arrange an Appeal Hearing. Ten working days to issue written response.
4*	SNCT	Determined by SNCT – see Appendix 2.

* Only applicable to matters relating to national agreements.

8.0 IMPLEMENTATION

8.1 This procedure will operate with effect from 1 January 2012.

9.0 REVIEW OF PROCEDURE

9.1 The Grievance Procedure may be reviewed at any time by The Moray Council LNCT following notification from any party to this agreement, specifying the parts they wish to see reviewed.