

## **1. Purpose**

- 1.1. 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 speedily and fairly before they can develop into major problems or, potentially, collective disputes.
- 1.2. The aim of Fife Council is to provide a working environment free from all forms of unfair discrimination. In the case of harassment, bullying and victimisation Fife Council will not tolerate such behaviour.
- 1.3. Managers have a responsibility to provide a fair and reasonable approach to dealing with employee's concerns.
- 1.4. While all employees have a right to expect fair treatment at work, it is the responsibility of all to ensure that they treat others with dignity and respect
- 1.5. The procedure does not apply where there are other, more appropriate, procedures such as appeals regarding the re-grading of posts or structural change and matching pools. It also does not apply to appeals against disciplinary action and the collective dispute procedure.

## **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. The process applies equally to groups of teaching staff and the same stages should be utilised as for individual grievances. Teaching staff have the right to be accompanied at all stages in the grievance process.
- 2.2. Apart from dealing with grievances quickly and fairly, decisions in relation to a particular grievance should be taken as closely as possible to where they arise. It is accepted, however, that a headteacher may not have the power or authority to sanction a particular resolution to a grievance which may be available to staff at Service level.
- 2.3. 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. Teaching staff will be made aware of the terms of this grievance procedure and have ready access to it.
- 2.4. Every effort should be made to resolve a grievance or potential grievance using informal mechanisms – eg discussion with a senior colleague, through an

informal approach by a trade union representative or by agreed 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.

- 2.5. As far as reasonably practical status quo ante shall apply in so far as there should be no change in working practice(s) in advance of the resolution of any grievance. Where it is a proposed, or enacted, change that gives rise to the grievance such change will not proceed whilst the Grievance is under consideration.
- 2.6. Every teacher has a right to seek redress for grievances relating to his/her employment.

### **3. Scope**

This procedure applies to all staff employed under the terms of the Scottish Negotiating Committee for Teaching Staff.

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## **4. Procedure**

- 4.1 This procedure describes how employees should raise concerns and how headteachers should respond.
- 4.2 The types of concerns/issues which are covered by this policy can be classified into two types. Please note, these examples are not exhaustive:

### **4.2.1 General work Issues**

These can often be addressed within short timescales due to the availability of other policies and/or information to support the decision making process.

Examples include:

- Unfair allocation of work
- Unfair allocation of time / organisation relating to e.g. job share
- No appropriate consultation relating to a Service Policy
- Inappropriate application of school procedures/Service procedures

### **4.2.2 Interpersonal Issues**

These tend to be complex or sensitive issues that involve other employees or managers and may require more detailed investigation where this is possible, in order to fully understand the facts of a case prior to a decision being made.

Examples include:

- Bullying/harassment at work
- Discrimination or inequality in treatment on the basis of gender, age, race, religion / belief, sexual orientation, disability
- Victimisation

Such issues may be one particular incident or a series/pattern of behaviour.

It should be noted that bullying and harassment are not generally associated with factors such as legitimate, constructive or fair criticism of an employee's performance or behaviour at work. Similarly, the occasional raised voice is not generally regarded as bullying or harassment.

## **5. Stages in the Procedure**

### **5.1 Informal /Mediation**

Most grievances are best resolved informally in discussion with the headteacher. For this reason, this stage should normally be the first step towards resolution. In some instances the Grievance may concern working relationships between a teacher and her/his colleague(s) or other staff. In such circumstances, and with mutual agreement, the headteacher may find it helpful to seek assistance from HR Direct to help resolve the problem via mediation or some form of facilitated meeting.

The teacher is not expected to complete any forms at this stage. Instead, s/he should simply request a private meeting with the headteacher. However, it is expected that the teacher will indicate how s/he would like to see matters resolved. Wherever possible, the meeting should be requested within 10 working days of the issue arising.

Although each case will be managed on its own merits, the core principles for all cases are as follows:

- there will be consideration of the facts of the case
- the decision-maker will reach an informed decision that addresses the concern as quickly as possible
- the decision-maker will communicate the decision and rationale to all key parties involved in the case

## **5.2 Formal Stages**

### **Stage 1**

- (i) If the teacher is dissatisfied with the response or if no response has been forthcoming, following the Informal stage, the teacher may initiate the first stage of the formal grievance procedure.
- (ii) The teacher should submit a formal written statement of grievance to the headteacher using the attached pro forma which should outline clearly the nature of the grievance.
- (iii) The headteacher 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.
- (iv) The headteacher will respond in writing to the formal statement of grievance within 5 working days of the date of the hearing.
- (v) Where a headteacher is the aggrieved party, the formal statement of grievance should be submitted to the Executive Director of Education. There may be circumstances where it would not be appropriate for the headteacher to hear the grievance at Stage 1, in which case the grievance should be submitted directly to the appropriate Service Manager.

### **Stage 2**

- (i) Should the teacher be dissatisfied with the decision of the headteacher, there shall be a right of appeal to the Executive Director of Education.
- (ii) A statement of appeal should be submitted in writing within 10 working days of receipt of the headteacher's decision explaining the reasons for continuing dissatisfaction.
- (iii) The Executive Director of Education, or nominee, will convene a formal appeal hearing within 10 working days, (or otherwise by mutual agreement) of receipt of the written statement of appeal. It is expected that a representative from Human Resources will be present at all Stage 2 meetings to advise the Chair. The teacher will have the right to be represented at the hearing.
- (iv) The Executive Director of Education or nominee shall respond in writing to the aggrieved teacher within 5 working days of the date of the hearing.

### **Stage 3**

- (i) Should the teacher remain dissatisfied with the response from the Executive Director of Education there shall be a right of appeal to the Appeals Sub-committee of the Council.
- (ii) An Appeal should be made in writing no later than 10 working days from the receipt of the notice of the decision at Stage 2.
- (iii) A meeting of the Appeals Sub-Committee will be arranged no later than 20 working days from receipt of the letter of Appeal. Notice of any witnesses and any evidence to be considered at this meeting will be provided no later than 5 working days in advance of the Hearing. The teacher will have the right to be represented at the hearing.
- (iv) The decision of the Appeals Sub-Committee will be notified, in writing, within five days of the meeting.
- (v) Where a teacher remains dissatisfied and the grievance relates to the implementation or interpretation of a national agreement he/she has the right to have it considered by the SNCT.

### **5.3 Appeals to the Scottish Negotiating Committee for Teachers**

- 5.3.1 If a teacher considers that s/he has a dispute with the employing authority regarding the application and/or interpretation of the national agreement on salaries and conditions of service, s/he must exhaust the employing authority's internal procedures in the first instance.
- 5.3.2 If a teacher is dissatisfied with the outcome of the employing authority's procedures, then s/he may ask for the case to be considered by the Joint Secretaries representing the Employers' Side and the Teachers' Side of the SNCT.
- 5.3.3 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.
- 5.3.4 The decision of the Appeals Panel will be final and binding on all parties to the appeal.

### **5.4 General Provisions**

- 5.4.1 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.

- 5.4.2 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.
- 5.4.3 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.

## **Appendix I - Guidance on Policy Application**

### **Headteacher/Line Manager**

Throughout this policy and procedure reference is made to a grievance being raised by a teacher with her/his Headteacher. Where the member of staff concerned occupies another post and/or where the immediate line manager is not a Headteacher, the policy and procedure should be read to mean that the aggrieved party should seek resolution by raising the matter with her/his immediate line manager in the first instance. Where the immediate line manager is considered to be the cause of the Grievance, the matter should be raised through the Executive Director of Education.

### **Witnesses**

Either the employee raising the issue or the person the issue is about may nominate witnesses. If it is believed that an employee has information that is important to the hearing the employee will be contacted and asked to provide an account of the events. Where a witness provides information this will be recorded as a note and will be referred to as their statement - if information is duplicated elements may be summarised in the note. The witness will be asked to sign a copy of their statement to confirm that it is a true reflection of what was said.

Witnesses should be made aware that their statement, or at least elements of their statement, may be referred to during the investigation and any subsequent formal meetings.

### **Confidential Support**

Employees may find the Council's employee counselling services a useful option in particular circumstances. It is often helpful to talk through a problem with someone who is not involved in the work situation in order to think through a problem before taking action. This service is confidential.

### **Discrimination Complaints**

Employees who have a complaint involving discrimination or harassment can contact HR Direct, for further advice.

### **Role of Human Resources**

Although it is the responsibility of the Service to resolve grievances, Human Resources can be called upon to provide advice at any stage of the proceedings at the request of the headteacher / Executive Director of Education. It may be that an issue is particularly sensitive or complex and involves terms and conditions. In such cases advice should be sought from HR Direct.

## **Complaints involving more than a Single Employee**

Where there are several employees involved in raising the same (or similar) issues, attendance at Hearings will normally be restricted to no more than three members of the group.

## **Time Limits**

The time limits referred to can be extended by agreement of both headteacher / Executive Director of Education and the employee, particularly to allow for a fuller in-depth investigation where the complaint is of a complex nature. However the employee should be provided with a written confirmation that the timescale will not be met and an indication of the revised timescale.

In the event of an employee not completing the appropriate complaint/grievance form within the agreed time limit, and where there has been no agreement otherwise, it will be deemed to have been withdrawn.

Note: a day means a working day ie Monday - Friday except public holidays.

## **Restarting the Procedure**

Where an issue has been resolved under this Policy and Procedure there will normally be no access to the procedure again on the same matter, unless a similar problem is encountered on a future occasion.

Where an issue has been raised and either:

- not progressed within the agreed time limits by the employee or
- not resolved to the satisfaction of the employee even at the completion of the process,

the employee cannot start the process again in relation to the same incident(s).

## **Sickness of Parties to the Case**

From time to time it may be felt that an investigation is unable to continue if an employee who is party to the case is unable to work due to sickness. This is not necessarily the case.

Where the employee is not well enough to attend work, but is able to participate in the investigation, then the investigation should continue, particularly if this will facilitate their return. The method for managing the investigation will be dependent on each individual case.

## **Grievances Arising During Disciplinary Proceedings**

Sometimes an employee may raise a Grievance about the behaviour of a headteacher during the course of a disciplinary case, or about a fellow employee who has made allegations of misconduct. Where this happens, and depending on the circumstances, the employee should inform the Nominated Officer for the disciplinary process in the first instance. An exception may be where the complaint is about the Nominated Officer.

## **Representation**

Employees have a right to representation by a single person who is a fellow employee, a Trade Union Official or other person of their choice, at all stages, formal and informal, of the procedure. This does not override the headteacher's right to directly question or seek confirmation of facts from the employee concerned.

## **Protection from Victimisation**

Employees should be able to raise concerns without fear of victimisation. In this way, the Council will seek to ensure that prompt action is taken against those who victimise somebody because they raised such an issue.

## **Supply Staff**

Due to the nature of Supply Staff contracts, it may be impractical for a headteacher to handle an issue raised by them under this procedure. This policy and procedure may not apply to this category of staff, although they remain entitled to have recourse to raising a grievance and not to be subjected to harassment, bullying or victimisation. Should such issues arise, they should inform the headteacher and a modified process, suited to their circumstances, will be agreed. In such cases guidance should be sought from Human Resources.

## **Confidentiality**

A fair and objective review of work concerns depends on, among other things, the confidentiality of all those involved i.e. the complainant, any witnesses, respondent. In addition, some issues may be of a sensitive nature. Consequently, the importance of maintaining confidentiality should be explained at the outset, to all those involved.

## **Disciplinary Action**

There may be occasions when a case investigated under this Policy is referred for consideration under the Council's Disciplinary Procedure. Some examples include:

- The investigation indicates evidence of a serious offence best addressed under the Disciplinary Procedure
- The investigation indicates that the employee's concern is groundless and is made maliciously
- Employees involved have breached their duty to maintain confidentiality
- An employee has victimised those involved in the investigation

Such cases should be referred for consideration as soon as the headteacher is aware there is sufficient evidence to warrant this. For example, if a headteacher finds evidence of severe bullying, then the case should be referred at that point for consideration under the Disciplinary Procedure.

## **Remedies**

When raising a concern or issue the employee is asked what remedy they seek. A remedy must be reasonable and within the powers of the Service to grant. These are varied and depend on the individual circumstances of the case. While at times the outcome may differ to that hoped for by the employee, the outcome will always be based on balanced consideration of the facts relating to the case. Some outcomes include:

- Taking no action
- Taking action to try and cease the unacceptable behaviour
- Obtaining an apology from the Service - this is not an outcome that can be required from an individual employee - although it can be recommended to the employee concerned
- Training/development for certain employees
- Preparing a plan of action for change with review periods
- Referring the matter for consideration under the disciplinary procedure
- Moving an employee(s) to another workplace or post.

This is not a definitive list and the remedy will suit the particular circumstances of the case.

## **Record Keeping**

It is essential that accurate and confidential records are kept of all Grievances

As such, the headteacher must provide a notetaker from within the Service. Where matters have progressed to the Formal Stages of the process, the headteacher must ensure that this note is recorded as a formal note of the Meeting and that a copy is sent to all present.

The records will be used as follows:

- At the Appeal when cases are referred to Stage 2, or Stage 3. The headteacher will be required to record the full case history, including the reasons for past decisions.
- By Fife Council for the purposes of fulfilling its statutory duties to monitor and publish data under the Race Relations Amendment Act 2000.

The collation of information will be managed centrally. However, headteachers hearing cases are responsible for recording the outcome of their decisions and keeping all associated records.

### **Key Milestones for Headteachers: (Informal)**

- The headteacher should have informed their HR Support Team of the employee's concern and agreed if assistance is required within two working days of being notified
- In normal circumstances, they should have met the employee within 10 working days of being notified of the request
- The headteacher should confirm the outcome of the meeting within 5 working days, detailing any decisions, follow-up actions and reasons behind them

### **Key Milestones for Headteachers (Stage 1)**

- The headteacher should have informed their HR Support Team of the employee's concern and agreed if assistance is required within two working days of being notified
- In normal circumstances the headteacher should have met with the employee within 10 working days of being notified
- The headteacher should confirm the outcome of the meeting within 5 working days detailing any decisions, follow up actions and reasons behind them

### **Key Milestones for Service Managers (Stage 2)**

- The Service Manager should have informed the HR Support Team within two working days of being notified of the employee's concern

- In normal circumstances, the Service Manager should have arranged a Stage 2 meeting and the Service Manager and HR representative should have met with the employee within 10 working days of being notified
- The Service Manager should confirm the outcome of the meeting within 5 working days detailing any decisions, follow up actions and reasons behind them

## **Appendix 2 - Chairing a Grievance Hearing**

### **General Work Issues**

Where a grievance hearing has been called to consider a general work issue it is unlikely that any investigation of the facts of the case by an independent party will be necessary. In such cases the Chair of the hearing will wish to :-

- review the facts of the case
- understand fully the issues that have been raised, and
- ensure all relevant information has been considered

This type of hearing may simply consist of the aggrieved party putting his/her case to the Nominated Officer. Alternatively it could involve other participants.

The hearing will be conducted as follows:

1. The Hearing will be conducted by the nominated officer, accompanied by a representative of Human Resources, where appropriate.
2. Ask the participants to state their case. Teacher and/or representative first.
3. Participants are invited to ask questions following presentation of case.
4. Nominated Officer and HR representative ask questions following presentation of case.
5. Participants sum up. Teacher and/or representative last.
6. The nominated officer will adjourn the meeting and consider the case.
7. The nominated officer will recall the parties to announce and explain the decision. Where further time is required to make a decision the participants will be advised of this and given a written decision within the agreed timescale.

### **Interpersonal Issues**

THE FOLLOWING GUIDANCE APPLIES TO THE CONDUCT OF A FORMAL GRIEVANCE HEARING WHERE THE GRIEVANCE INVOLVES THE ACTION OF ANOTHER AND, WHERE APPROPRIATE, ALL PARTIES ARE PRESENT

1. The Hearing will be conducted by the nominated officer, accompanied by a representative of Human Resources, where appropriate.
2. Where an investigation has been undertaken the person who has carried this out will be in attendance.
3. The teacher and/or representative will present his/her grievance. The person whom the grievance is about may ask questions. The nominated officer and HR representative may ask questions.
4. The person whom the grievance is about will respond. The teacher and/or representative may ask questions. The nominated officer and HR representative may ask questions.
5. Both sides will sum up. The teacher and/or representative last. No new material may be introduced by either party during the summing up.

6. The nominated officer will adjourn the meeting in order to consider the case and consult with the Human Resources representative, if present.
7. The nominated officer will recall the parties together to announce their decision. The teacher shall be given an explanation for that decision and informed of the right of appeal.
8. Where the nominated officer needs further time to reach a conclusion on the evidence presented he/she should advise the teacher that the decision will be communicated in writing within the agreed time limits.
9. The nominated officer should arrange for a note of the grievance hearing to be taken, a copy of which will be forwarded to the teacher with the letter informing him/her of the outcome of the hearing. A copy will also be sent to Human Resources and representative if appropriate.
10. When the teacher and/or representative disputes the accuracy of the note then a request should be made to the nominated officer to amend it accordingly. When the request is denied, the teacher and/or representative may request that their version of the record is appended to the original note.
11. In normal circumstances witnesses or witness statements if an investigation has been carried out should be available to the Hearing. In exceptional cases e.g. harassment, bullying, intimidation signed statements may be presented and the witness need not attend.