

Scottish Negotiating Committee for Teachers

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Dear Colleague

SNCT/40 **Appeals Procedure**

The SNCT has reached agreement on a formal appeals procedure which shall apply to disputes regarding the application and/or interpretation of the National Agreement, A Teaching Profession for the 21st Century and the Scheme of Salaries and Conditions of Service for Teachers in School Education.

The procedure is attached as Appendix 1 to this Circular which replaces Paragraph 7.7 and 15.4 of the Scheme of Salaries and Conditions of Service.

Yours sincerely

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Drew Morrice (Teachers' Panel)
Stephanie Walsh (Scottish Executive)

Joint Secretaries

Scottish Negotiating Committee for Teachers Appeals Procedure

1. Purpose

- 1.1 Where a teacher has a dispute with their employing council which remains unresolved after the council's grievance/appeals procedure has been exhausted, then the teacher may refer the case to the Scottish Negotiating Committee for Teachers which has put in place a conciliation and appeals mechanism to permit disputes on conditions of service matters to be settled at national level.

2. Appeals Competence

- 2.1 The case will first of all be considered by the Joint Secretaries representing COSLA and the Teachers' Side.
- 2.2 The Joint Secretaries will consider whether the appeal is competent by reference to SNCT circulars, the Scheme of Salaries and Conditions of Service of Teachers in School Education, and the National Agreement, A Teaching Profession for the 21st Century.
- 2.3 It shall not be competent to appeal matters devolved to Local Negotiating Committees for Teachers under Annex F of the 2001 National Agreement "A Teaching Profession for the 21st Century".

3. Stage One – Joint Secretaries

- 3.1 Where the Joint Secretaries representing COSLA and the Teachers' Side hold the appeal to be competent the Joint Secretaries can issue advice to both parties to assist resolution. Such advice cannot be binding.
- 3.2 If there is a failure by the Joint Secretaries to agree advice or where advice from the Joint Secretaries does not resolve the matters the case will be referred to an Appeals Panel of the SNCT.

4. Stage Two - Panel

- 4.1 The SNCT Appeals Panel will consist of a member from each of the Teachers' Side, the Scottish Executive and COSLA. No member of the panel shall have a previous involvement with the case being considered.
- 4.2 The decision of the Appeals Panel will be final and be binding on all parties to the appeal.

5. Appeals Procedure

5.1.1 Lodging the Appeal

Notice of appeal to the SNCT must be lodged by the appellant or representative with the Joint Secretary (Teachers' Side) within 14 days of the outcome of the final local appeal being notified to the appellant. The Joint Secretary (Employers' Side) shall be informed.

5.1.2 Within one calendar month of the appeal being lodged, the appellant or representative shall submit to the Joint Secretary (Teachers' Side) a written Statement of Case together with all necessary supporting papers. Where more than one teacher is involved in an appeal, separate submissions should be made unless the details are identical.

5.1.3 The evidence and papers submitted in support of a case shall be those presented at the local hearing unless otherwise agreed by the parties in dispute.

5.1.4 On receipt of the papers from the Joint Secretary (Teachers' Side), the Joint Secretary (Employers' Side) shall forward these to the appropriate employing body, which shall make written response to the Joint Secretary (Employers' Side) within one calendar month. Copies of the response shall be sent to the appellant and representative on receipt.

5.1.5 The Joint Secretaries Teachers' Side and Employers' Side shall then meet to consider the case and seek to reach agreement on joint advice. The Joint Secretaries may seek additional information for clarification before providing advice.

5.1.6 Where the Joint Secretaries cannot agree joint advice they will call a meeting of the Appeals Panel within one calendar month of receipt of the employer's response.

5.1.7 Where the Joint Secretaries issue joint advice and this is not acceptable to either or both of the parties involved in the case the Joint Secretaries should be advised of this in writing within one calendar month of the advice being received. On receipt of this notice the Joint Secretaries will call a meeting of the Appeals Panel within one calendar month of receipt of notification.

5.2 Appeals Panel

5.2.1 A chairperson will be appointed for each case heard. Each side will take the chair by rotation.

5.3 Hearings

- 5.3.1 The appellant or representative will state the appellant's case, calling any relevant witnesses with personal knowledge of the case. Any persons attending as witnesses shall not normally speak except to answer questions.
- 5.3.2 The representative of the respondent employer will then be given the opportunity of questioning the appellant, his/her representative, or any witness.
- 5.3.3 The members of the Appeals Panel may then question the appellant, his/her representative, or any witness to clarify areas of uncertainty. The witness(es) will then withdraw.
- 5.3.4 The representative or the respondent employer will then state the case on behalf of the employer, calling any relevant witnesses. Any persons attending as witnesses shall not normally speak except to answer questions.
- 5.3.5 The appellant or representative will then be given the opportunity of questioning the representative of the respondent employer or any witness.
- 5.3.6 The members of the Appeals Panel may then ask questions of the representative of the respondent employer or any witness to clarify areas of uncertainty. The witness(es) will then withdraw.
- 5.3.7 The chairperson shall ensure that all questioning is completed before each Side is given the opportunity to sum up its case. No further questioning or other contribution shall be allowed after the process of summing up has commenced.
- 5.3.8 The representative of the respondent employer will then sum up the employer's case and may reply to any points raised at the hearing but may not introduce fresh evidence.
- 5.3.9 The appellant or representative will then sum up his/her case and may reply to any points in the course of the hearing but may not introduce fresh evidence.
- 5.3.10 After the case for the appellant has been summed up, all parties will withdraw.
- 5.3.11 If the members of the Appeals Panel need to ask further questions to help in their deliberations, both parties will be recalled, even if questions are to be asked of one party only.

5.3.12 The parties will not normally be called back to hear the decision of the Appeals Panel, but will be informed in writing, by the Joint Secretary (Employers' Side), within 10 days of the decision.

5.4 Decisions of the Appeals Panel

5.4.1 The Appeals Panel shall reach its decisions by voting, each member having one vote. Where the majority of the panel decide in favour of the appellant, the appeal shall be upheld. Where a majority of the panel decide against the appellant, the appeal shall be rejected.

5.5 Report to SNCT

5.5.1 Decisions of the Appeals Panel will be reported to the next full meeting of the SNCT.

6. LNCT Failure to Agree

6.1 Where conditions of service matters are devolved to LNCTs under Annex F of the 2001 National Agreement, "A Teaching Profession for the 21st Century" the LNCT constitution shall determine what happens in the event of a dispute being declared.

6.2 It shall be open to either side to refer the failure to agree to the SNCT for conciliation. If the conciliation is unsuccessful the Joint Chairs of the SNCT may recommend further procedures for resolution of the difference, including external conciliation, mediation or binding arbitration.