

DNCT/3

GRIEVANCE PROCEDURES FOR TEACHERS AND ASSOCIATED PROFESSIONALS

1. Introduction

- 1.1 Every teacher has a right to seek redress for grievances relating to their employment. That right is given effect for teaching staff in Dundee City Council by the procedure which follows, to be applied at both school/establishment level and at Council level as appropriate. The procedure also applies to other employees whose conditions of service are determined by the SNCT. viz. Educational Psychologists, Quality Improvement Officers and Music Instructors. For references to Head Teacher, please read as Head of Establishment/Principal Officer as appropriate. The procedure complies with both the Employment Act 2002 and with the ACAS Code of Practice 1 (2009) entitled "Disciplinary and Grievance Procedures".
- 1.2 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 speedily and fairly before they can develop into major problems or, potentially, collective disputes.

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. "*Status quo ante*" provisions are included as appropriate (see 2.5 (d) and 5.1 below). Teaching staff have the right to be accompanied at all stages in the grievance process by a trade union representative or work colleague.
- 2.1 Apart from dealing with grievances quickly and fairly, 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. 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.
- 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.
- 2.4 Every effort should be made to resolve a grievance or potential grievance using informal mechanisms – e.g. 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.
- 2.5 In summary, therefore, the following principles have been applied to this grievance procedure.
 - a) All grievances should be dealt with quickly, fairly and within agreed time limits.
 - b) Individual and group grievances should be dealt with using the same procedure and including the same stages.
 - c) Decisions relating to a grievance should be taken at the lowest appropriate level and should, where possible, involve the use of informal mechanisms to secure a resolution.

- d) The use of the “*status quo ante*” provisions will normally be restricted to grievances which relate to situations where changes to terms and conditions are being contemplated. However, it will also apply, where practicable, to changes to working practices or organisational structures.

3. Stages of the Grievance Procedure

- 3.1 Stage 1 - Every attempt should be made to resolve the matter through informal discussion with the Head Teacher or other senior manager who will respond orally within 2 working days. If the teacher continues to be aggrieved, they may raise the matter again with the Head Teacher or other senior manager with the assistance of a trade union representative. The teacher will again be advised of the outcome within 2 working days, not necessarily in writing. If, however, the aggrieved party is dissatisfied with the response or if no response has been forthcoming within a reasonable period, the teacher should proceed to stage 2.
- 3.2 Stage 2 – The teacher should submit a formal written statement of grievance to the Head Teacher which should outline clearly the nature of the grievance and where possible to the resolution sought by the aggrieved party. A pro-forma for this purpose is attached as Appendix 3 and is available on the corporate intranet. The Head Teacher or other Senior Manager 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 the Head Teacher or Senior Manager will respond in writing to the formal statement of grievance within 5 working days of the date of the hearing. Where the Head Teacher is the aggrieved party, the formal statement of grievance should be submitted to the Director. In line with paragraph 2.2 above, there may be other circumstances where it would not be appropriate for the Head Teacher to hear the grievance at Stage 2, in which case the grievance should be submitted directly to the appropriate Head of Service who will carry out the procedure as outlined above or where appropriate delegate the matter to a Senior Manager to do so.
- 3.3 Stage 3 (Right of Appeal) – Should the teacher be dissatisfied with the decision reached in Stage 2, there shall be a right of appeal to the Director. A statement of appeal must be submitted in writing within 10 working days of receipt of the decision reached in Stage 2, explaining the reasons for continuing dissatisfaction. The Director or other Senior Manager will convene a formal appeal hearing within 10 working days of receipt of the written statement of appeal. The Director or other Senior Manager shall respond in writing to the aggrieved teacher within 5 working days of the date of the hearing.
- 3.4 Stage 4 - If the teacher remains dissatisfied with the decision from Stage 3 there shall be a final right of appeal to the Personnel Appeals Sub Committee. A statement of appeal must be submitted in writing to the Chief Executive within 10 working days of receipt of the Director or other Senior Manager’s decision explaining the reason for continuing dissatisfaction. Such cases will normally be heard by the Personnel Appeals Sub Committee within 20 working days of the Chief Executive being advised.
- 3.5 Stage 5 – The final decision of Dundee City Council can be submitted to the Joint Secretaries of the Scottish Negotiating Committee for Teachers for consideration 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 extract from the SNCT constitution at Appendix 1).

4. The Conduct of Formal Grievance and Appeal Hearings

- 4.1 The 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, Senior Manager, Head of Service or Director (with advice from an appropriate HR Officer) must be given every opportunity to justify a decision which is subject to appeal. Where possible, the HR officer providing advice to the officer hearing the grievance should be different from the HR officer who provided advice to the Head Teacher or officer at an earlier stage. Procedures for the conduct of grievance hearings and appeals are set out in Appendix 2.

5. General 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.
- 5.3 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, or by a trade union on their behalf, by means of the procedures outlined above.
- 5.4 Complaints of personal harassment will be dealt with in accordance with the Council's Personal Harassment Policy. Where a teacher has a harassment complaint but feels they cannot discuss this with their line manager, they can contact a nominated harassment support officer for confidential advice. Alternatively, confidential advice can be obtained from Human Resources or from the teacher's trade union representative.
- 5.5 The teacher is entitled to pursue their complaint without representation or to be represented by a trade union or a work colleague. The teacher is not entitled to be represented by any other party. If the teacher chooses to have representation, it is their responsibility to communicate with their trade union representative or work colleague to arrange for their attendance at any grievance meetings or hearings.

6. The Grievance Stages, Appeals and Time Limits

6.1 The following time limits have been agreed for implementing the basic stages within the procedure.

Stage	Heard By	Normal Time Limit (Working Days)
1	Head Teacher or other senior manager	2 days to issue an oral response. 2 days again if teacher remains aggrieved and makes further representation.
2	Head Teacher or other Senior Manager	10 days to arrange formal hearing 5 days to issue written response
3	Director or Senior Manager	10 days to arrange appeal hearing 5 days to issue written response
4	Personnel Appeals Sub Committee	20 days to arrange appeal hearing 5 days to issue written response
5*	SNCT	Determined by SNCT (see Appendix 1)

**Only applicable to matters relating to national agreements*

7. Procedure which applies where a teacher has already left employment

7.1 Wherever possible a grievance should be dealt with before a teacher leaves employment. Where a teacher has already left employment, his/her grievance must be lodged within 3 months of leaving employment in line with the steps below:

Step 1

The teacher should write to their former Head Teacher or relevant Senior Manager, or if the complaint is against that individual, the relevant Head of Service or Director, detailing the nature of the alleged grievance and the resolution sought.

Step 2

The former Head Teacher, Senior Manager or Head of Service will consider the grievance.

A written response will then be provided to the teacher within 20 days of receipt of the grievance advising them of the conclusions reached and their right of appeal within 10 days of receipt of a response.

Step 3

Where the teacher remains dissatisfied, he/she should write to the Director of Education within 10 days of receipt of the above response advising that he/she wishes to pursue an appeal.

The Director or nominated Senior Manager will arrange a meeting within 20 days to consider the appeal. An HR Officer will be in attendance at this meeting.

The teacher will have the right to be accompanied by a trade union representative or a work colleague at this meeting. All parties will be advised in writing of the conclusions reached within 10 days of the final meeting.

Appeals to the Scottish Negotiating Committee for Teachers

1. Where a teacher has a grievance with the Council which remains unresolved after the above grievance/appeals procedure has been exhausted, then he/she may refer the case to the Scottish Negotiating Committee for Teachers (SNCT) 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. The case will first of all be considered by the Joint Secretaries representing the Convention of Scottish Local Authorities (COSLA) and the Teachers' Side. The Joint Secretaries will consider whether the appeal is competent by reference to the National Scheme of Salaries and Conditions of Service for Teachers and Associated Professionals. It shall not be competent to appeal matters devolved to Local Negotiating Committees for Teachers (LNCTs).
3. 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. 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. The decision of the Appeals Panel will be final and binding on all parties to the appeal.

PROCEDURES FOR THE CONDUCT OF GRIEVANCE HEARINGS AND APPEALS

Purpose

The purpose of a grievance or appeal hearing is to make available all relevant information relating to the grievance in order that the Chairperson is in a fully informed position to make his/her decision on the grievance/appeal. All parties concerned should endeavour therefore to have such information available for the Hearing. However, it may be necessary on occasion to adjourn to obtain documentation, call other witnesses, etc.

Format

Note: the Grievance/Appeal Panel will normally comprise the Chairperson as stipulated by the Grievance Procedures and an HR Officer in an advisory capacity.

The Hearing follows the sequence below:

- a) The Chairperson intimates the status of the Hearing, introduces the participants, outlines the procedure to be followed and confirms the grievance/appeal to be considered.
- b) The employee who has raised the grievance or is pursuing an appeal and/or Trade Union representative present the evidence in support of his/her grievance/appeal, calling witnesses, one at a time, to make statements and/or answer questions regarding their knowledge of the grievance or associated circumstances.
- c) The person whose decision or action is the subject of the grievance/appeal is given the opportunity to ask questions of each witness in turn and of the employee who has raised the grievance or is pursuing an appeal.
- d) The members of the Grievance/Appeal Panel have the opportunity to ask questions of each witness in turn and of the employee.
- e) The employee whose decision is the subject of the grievance/appeal shall present the evidence in support of his/her decision calling any witnesses, one at a time, to make statements and or answer questions regarding their knowledge of the decision taken or associated circumstances.
- f) The employee who has raised the grievance or is pursuing an appeal and/or Trade Union representative is given the opportunity to ask questions of each witness in turn and of the employee whose decision is the subject of the grievance/appeal.
- g) The members of the Grievance/Appeal panel have the opportunity to ask questions of each witness in turn and of the employee.
- h) The employee whose decision is subject of the grievance/appeal is given the opportunity to sum up the case supporting his/her decision.
- i) The employee who has raised the grievance or is pursuing an appeal and/or Trade Union representative is given the opportunity to sum up the case in support of his/her grievance/appeal.
- j) The employees and Trade Union representative withdraw from the Hearing in order that the Grievance/Appeal Panel may deliberate in private.

- k) The employee who has raised the grievance or is pursuing an appeal and Trade Union representative are recalled to be advised of the decision, informed that it will be confirmed in writing and where applicable advised of the right of appeal.

STATEMENT OF GRIEVANCE

Name of Teacher raising Grievance _____

School _____ Post held _____

A NATURE OF GRIEVANCE (Please outline clearly the nature of the grievance
- use reverse side of Form if necessary)

B PROPOSED RESOLUTION (Please indicate where possible your proposed
resolution of your grievance)

Signed by Teacher raising Grievance _____

Date _____

Signed by Head Teacher/Senior Manager or
Director of Education _____

Signature acknowledges receipt of the above

Date _____

A NATURE OF GRIEVANCE (Cont.)