



SOUTH AYRSHIRE COUNCIL

**JOINT NEGOTIATING COMMITTEE FOR
TEACHERS**

**GRIEVANCE PROCEDURES
(JNCT1.11)
(review pending)**

1. Introduction

- 1.1 South Ayrshire Council recognises that grievances will arise from time to time, even in the best managed services, and this agreement puts in place a formally documented procedure for resolving such problems as swiftly and as satisfactorily as possible.
- 1.2 Every teacher has a right to redress for grievances relating to their employment. As part of the agreement, 'A Teaching Profession for the 21st Century' the Scottish Negotiating Committee for Teachers (SNCT) devolved powers to Local Negotiating Committees for Teachers (LNCT's) to reach locally agreed grievance procedures within a framework agreed by the SNCT. This framework (SNCT 23) is attached as Appendix 1 of this agreement.
- 1.3 This local agreement complies with both the Employment Act, 2002 and the ACAS Code of Practice (No.1) entitled 'Discipline and Grievance Procedures'.

2. Principles

- 2.1 This procedure should be used by teaching staff who have grievances arising from their employment other than those of a disciplinary nature which will be dealt with under South Ayrshire Council – Educational Services Disciplinary Procedures for Teaching Staff.
- 2.2 A grievance may be raised by an employee or a group of employees and the same procedure should apply to a group grievance as to an individual grievance.
- 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 Teaching staff should be made aware of the terms of this agreement and have ready access to a copy of the agreement.
- 2.5 Teaching staff have the right to be accompanied at all stages in the grievance procedure.
- 2.6 Every effort should be made to resolve a grievance or potential grievance using informal mechanisms e.g. through discussion with a senior colleague or through an informal approach by a trade union representative. However, if informal methods fail and the aggrieved party remains dissatisfied with the outcome or the response, the formal procedures outlined below should be used.
- 2.7 All grievances should be dealt with quickly, fairly and within agreed time limits. Decisions in relation to a particular grievance should be taken at the lowest possible level within the hierarchy of stages at which the matter can be resolved. It is recognised, however, that a Head Teacher, for example, may not have the power or authority to sanction a particular resolution to a grievance and that the matter might require reference to a higher level of authority for consideration.
- 2.8 Where a grievance relates to changes to terms and conditions of employment the 'status quo ante' will be maintained until the procedure has been followed and exhausted although agreement need not necessarily have been reached. These provisions would also normally apply to grievances relating to changes in working practices or organisational change.

3. The Formal Grievance Procedure

(In all of the procedures outlined below references to the Head Teacher apply to staff employed in schools. Where the aggrieved party or appellant is employed in any other area of the service then the appropriate Line Manager should substitute for the Head Teacher.)

3.1 Stage 1: Informal

Every attempt should be made to resolve the matter through informal discussion or through informal representation by a Trade Union representative or official. The Head Teacher or other Senior Manager should respond as quickly as possible to an informal approach, not necessarily in writing. If however the aggrieved party is dissatisfied with the response or there is no response forthcoming within a reasonable period, the teacher should initiate Stage 2 of the formal grievance procedure.

3.2 Stage 2: Formal

The teacher (or group of teachers) should submit a formal written statement of grievance to the Head Teacher (using the appropriate pro-forma) which should outline clearly the nature of the grievance. The written statement should include, where appropriate, reference to the resolution sought by the aggrieved part. The Head Teacher 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 (or group of teachers) will have the right to be represented at the hearing. The Head Teacher 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 shall be submitted to the Director of Educational Services. The Director (or his/her nominee) shall respond within the same timescale as indicated above.

There may be other circumstances where the formal statement of grievance should be submitted to the Director of Educational Services rather than the Head Teacher e.g. where the grievance is against the Head Teacher or where the Head Teacher does not have the power or authority to sanction a particular resolution.

3.3 Stage 3: Formal

Where a teacher (or group of teachers) remains dissatisfied with the decision of the Head Teacher, there shall be a right to appeal to the Director of Educational Services (or his/her nominee). A statement of appeal (submitted on the appropriate pro-forma) must be submitted, in writing, within 10 working days of the receipt of the decision of the Head Teacher, explaining the reasons for continuing dissatisfaction. The Director (or his/her nominee) will convene a formal appeal hearing within 10 working days (or otherwise by mutual agreement) of receipt of the written statement of appeal. The teacher (or group of teachers) shall have the right to be represented at the appeal hearing. The Director (or his/her nominee) shall respond in writing to the aggrieved teacher (or group of teachers) within 5 working days of the hearing.

3.4 Stage 4: Formal

If the teacher (or group of teachers) remains dissatisfied with the response from the Director of Educational Services there shall be a right of appeal to the Appeals Panel. Any request for such a hearing should be intimated to the Executive Director of Resource, Governance and Organisation within 10 working days from the receipt of the decision. A statement of appeal shall be submitted on the appropriate pro-forma. A meeting of the Panel shall be called within 20 working days of the request for a hearing being received. The teacher (or group of teachers) shall have the right to be represented at the appeal hearing. Procedures for the conduct of the hearing are given in Section 5 below. The appeals Panel shall intimate its decision, after deliberation, on the day of the hearing and shall confirm that decision in writing within 5 working days of the date of the hearing.

3.5 Stage 5: Formal

Where the subject matter of the original grievance relates to the interpretation or implementation of a national SNCT agreement, a teacher (or group of teachers) who remains dissatisfied with the decision of the Appeals Panel may submit the matter to the Joint Secretaries of the Scottish Negotiating Committee for Teachers (SNCT) for their consideration. (See Appendix 1 of SNCT 23 – Revised Grievance Framework).

4. The Conduct of Formal Grievance and Appeal Hearings

(In all of the procedures outlined below references to the Head Teacher apply to staff employed in schools. Where the aggrieved part or appellant is employed in any other area of the service then the appropriate Line Manager should substitute for the Head Teacher.)

NB – At all stages of the grievance procedures, where the appeal is from a group of teachers they should select one from their number to act as the spokesperson for the appellants and only that individual should be present throughout the above proceedings, whether representing themselves or accompanied by an appropriate representative. The other appellants may, of course, be called as witnesses.

4.1 Stage 2: Formal – Grievance Hearing by Head Teacher

The teacher(s) or the teacher(s) representative, shall present evidence in support of his/her/their grievance and may call such witnesses as may be required.

The Head Teacher shall have the opportunity to ask questions of the teacher(s) or his/her/their representative and of any witnesses called by the teacher(s) or his/her/their representative.

The teacher or his/her/their representative shall have the opportunity to ask further questions of any witness, to make points of elucidation arising from questions from the Head Teacher

The Head Teacher shall have the opportunity to put forward his/her reasons for any decision or action which is the subject of a grievance and call such witnesses as may be required.

The Head Teacher may be advised by an appropriate officer from Educational Services or other professional adviser e.g. a Depute Head Teacher.

The teacher or his/her/their representative shall have the opportunity to ask questions of the Head Teacher or witnesses called by the Head Teacher.

The Head Teacher shall have the opportunity to ask further questions of any witness, to make points of elucidation arising from questions from the teacher(s) or his/her/their representative.

The Head Teacher and the teacher(s) or his/her/their representative shall have the opportunity, if they wish, to sum up their case, introducing no new material.

The Head Teacher shall convey his decision in writing within 5 working days of the hearing as stated in 3.2 above.

The Head Teacher shall decide that EITHER:

- (i) The grounds for the grievance have been substantiated and the grievance be upheld.
- OR
- (ii) That the grounds for the grievance have been substantiated in part and the appeal is upheld to the extent thatOR
 - (iii) That the grounds for the grievance have not been substantiated and is not upheld.

4.2 Stage 3: Formal – Appeal to Director

The teacher(s) or the teacher(s) representative, shall present evidence in support of his/her/their

appeal and may call such witnesses as may be required.

The Director (or nominee) shall have the opportunity to ask questions of the teacher(s) or his/her/their representative and of any witnesses called by the teacher(s) or his/her/their representative.

The teacher or his/her/their representative shall have the opportunity to ask further questions of any witness, to make points of elucidation arising from questions from the Director (or nominee).

The Director (or nominee) shall have the opportunity to put forward his/her reasons for any decision or action which is the subject of an appeal and call such witnesses as may be required.

The Director (or nominee) may be advised by an appropriate officer from Educational Services or other professional adviser.

The teacher or his/her/their representative shall have the opportunity to ask questions of the Director (or nominee) or witnesses called by the Director (or nominee).

The Director (or nominee) shall have the opportunity to ask further questions of any witness, to make points of elucidation arising from questions from the teacher(s) or his/her/their representative.

The Director (or nominee) and the teacher(s) or his/her/their representative shall have the opportunity, if they wish, to sum up their case, introducing no new material.

The Director (or nominee) shall convey his decision in writing within 5 working days of the hearing as stated in 3.3 above.

The Director (or nominee) shall decide that EITHER:

- (iv) The grounds for the grievance have been substantiated and the grievance be upheld. OR
- (v) That the grounds for the grievance have been substantiated in part and the appeal is upheld to the extent that ...OR
- (vi) That the grounds for the grievance have not been substantiated and is not upheld.

4.3 Stage 4: Formal – Appeals Panel

4.3.1 Procedures Prior to the Hearing

Details of the procedures adopted by the Panel shall be supplied to the appellant(s) and his/her/their representative, including advice as to the right to be represented at the Hearing and to call witnesses, if necessary. This shall be done as soon as possible after lodging the appeal.

Together with the written notification of lodgement of the appeal, the teacher(s) or his/her/their representative should specify the grounds for the appeal and may include a brief statement of the case to be made, together with supporting documents.

The relevant representative of Educational Services shall be invited similarly to submit a brief statement of the case to be made, together with supporting documents.

If either side wishes to take advantage of the opportunity to submit a brief written statement, this should be submitted within 5 working days of lodgement of the appeal.

At least 10 working days notice of the hearing of the Appeals Panel shall be given. Such notice shall include copies of any papers submitted by the parties.

If either side intends to submit or refer to any further documentary evidence, then this should be in

the hands of the Executive Director of Resource, Governance and Organisation (or his appointee) no later than 3 days prior to the Hearing. The Executive Director of Resource, Governance and Organisation (or his appointee) shall ensure, where practicable, copies are available at the Hearing and that parties are notified of the intention to submit or refer to this further documentary evidence.

4.3.2 Procedure to be followed at Hearing of a Grievance Appeal

There may be present at all times, the appellant(s), his/her/their representative; and the Children and Community representative.

A person or persons acting in an advisory capacity only to the appellant(s), his/her/their representative or to the Educational Services representative, may also be allowed to be present at the Hearing, provided such persons are made known to the Appeals Panel prior to the case commencing.

The appellant(s) or his/her/their representative, shall put forward its case in the presence of the department's representative and call such witnesses as may be required.

The Educational Services representative shall have the opportunity to ask questions of witnesses called by the appellant.

The members of the Appeals Panel shall then have the opportunity to ask questions of the appellant's witnesses.

The appellant(s) or his/her/their representative shall have the opportunity to ask further questions of the witness, to make points of elucidation arising from questions from the department's representative and members of the Appeals Panel.

The representative of Educational Services, shall put forward its case in the presence, of the appellant(s) and his/her/their representative and call such witnesses as may be required.

The appellant(s) representative or the appellant (if not represented) shall have the opportunity to ask questions of witnesses called by Educational Services.

The members of the Appeals Panel shall then have the opportunity to ask questions of Educational Services witnesses.

The Educational Services representative shall have the opportunity to ask further questions of the witness, to make points of elucidation arising from questions from the appellant's representative and members of the Appeals Panel.

The Educational Services representative and the appellant(s) or his/her/their representative shall have the opportunity, if they wish, to sum up their case, introducing no new material.

The Educational Services representatives, the appellant(s) and his/her/their representative, and any advisers if present, shall then withdraw.

The Appeals Panel, in the presence of the Officer(s) appointed to assist the Committee, shall then deliberate in private, only recalling if necessary, the Educational Services representatives, the appellant(s) and his/her/their representative, to clarify points of uncertainty on evidence already given.

If recall is necessary, both parties are to return notwithstanding only one is concerned with the point giving rise to doubt.

The Appeals Panel shall recall the Educational Services representative, the appellant(s) and his/her/their representative and announce their decision on the appeal, which will be confirmed in writing.

Under the Council's Scheme of Delegations to Committees, the Appeals Panel is authorised to

uphold or reject appeals or to order the varying of the action taken. The form of the decision to be announced by the Appeals Panel shall be one of the following as appropriate:-

- (i) That the grounds of the appeal have been substantiated and the appeal be upheld.
- (ii) That the grounds of the appeal have been substantiated in part and the appeal is upheld to the extent that
- (iii) That the grounds of the appeal have not been substantiated and the appeal is not upheld.
- (iv) That the matter be referred to an independent body, agreed by both sides, for binding resolution.

4.3.3 Procedures Following the Hearing

The Executive Director of Resource, Governance and Organisation (or his appointee) shall give to the parties written confirmation of the decision taken by the Appeals Panel. This shall be effected in writing within 5 working days of the Hearing at which the decision is taken.

An employee shall be entitled to written reasons for the decision by a request in writing to the Executive Director of Resource, Governance and Organisation within 14 days of the notification of the decision.

If such a request is received, the written reasons shall be given within 14 days of the receipt of the request.

5. Summary of the Grievance Stages, Appeals and Time Limits

Stage	Heard By	Time Limit
1	Informal	
2	Head Teacher	10 days to arrange formal hearing 5 days to issue written response
3	Director or Nominee	10 days to arrange appeal hearing 5 days to issue written response
4	Appeals Panel	20 days to arrange appeal hearing 5 days for written confirmation of decision 14 days from receipt of request to provide written explanation of decision
5	SNCT	See Appendix 1 of SNCT 23

**EDUCATIONAL SERVICES
CONFIDENTIAL - GRIEVANCE NOTIFICATION FORM FOR TEACHERS**

Agreed by Joint Negotiating Committee for Teachers



Note: If you require any assistance in completing this form, please contact your trade union representative or HR team.

Personal details

Name:		Post Title:	
School:		Work Phone No:	
Home Address:			

Trade Union details

Name of Trade Union		Trade Union Representative	
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Stage of Appeal

		<i>Please enter date of meeting in box below</i>				
Stage 1 (informal)	<input type="text"/>	Resolved	Yes	<input type="text"/>	No	<input type="text"/>
Stage 2 (School SMT or Head of Service if submitted by Head Teacher)	<input type="text"/>	Resolved	Yes	<input type="text"/>	No	<input type="text"/>
Stage 3 (Directorate)	<input type="text"/>	Resolved	Yes	<input type="text"/>	No	<input type="text"/>
Stage 4 (Appeals Panel)	<input type="text"/>	Resolved	Yes	<input type="text"/>	No	<input type="text"/>
Stage 5 (SNCT)	<input type="text"/>	Resolved	Yes	<input type="text"/>	No	<input type="text"/>

Nature of Grievance **(please use separate sheet if required)**

Please state what answers have been given at previous stages of the grievance process :

Please indicate in your opinion how the grievance could be resolved :

SIGNATURE :		DATE :	
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For office use only

Stage 1	Date Received:		Date of hearing:		Chaired by :	
Stage 2	Date Received:		Date of hearing:		Chaired by :	
Stage 3	Date Received:		Date of hearing:		Chaired by :	
Stage 4	Date Received:		Date of hearing:		Chaired by :	
Stage 5	Date Received:		Date of hearing:		Chaired by :	

This form is used to help assess and investigate the grievance. It will be securely stored in your personnel file where only authorised personnel will have access to it.