

Grievance Procedure- Teaching Staff Version: 2.3

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North Ayrshire Council
Comhairle Siorrachd Àir a Tuath

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Related Forms/ Template Letters	<ul style="list-style-type: none"> • <u>Stage 1 Grievance Form – Teaching Staff</u> • <u>Stage 2 Grievance Form – Teaching Staff</u> • <u>Stage 3 Grievance Form – Teaching Staff</u> <p>All of the template letters and forms referenced in this document are available on the Councils Intranet site '<u>Connects</u>'.</p>
Related documents	
Prepared by	HR Operations Team

Version Number	Effective Date	Details of Last Revision
2.3	July 2017	Reinforcement of informal resolution, change to designations and removal of Modified Procedure
2.2	24.08.15 - tbc	Updated to replace reference to Navigate with 'Connects'
2.1	11.07.14 - 24.08.15	Updated onto new policy template
2	01.03.14 - 11.07.14	

Equality Impact Assessment	
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1. Scope

- 1.1 This Procedure applies to all staff covered by the Pay and Conditions of Service for Teachers and Associated Professionals (hereinafter referred to as “Teacher”) within North Ayrshire Council (hereinafter referred to as “the Council”).
- 1.2 This Procedure does not apply to former employees of North Ayrshire Council. A former employee who wishes to make a tribunal claim regarding employment matters should contact ACAS in the first instance for access to the Early Conciliation process.
- 1.3 This procedure sets out the actions to be taken in the event that a Teacher raises a grievance within the Council. The procedure also includes an appeal stage.
- 1.4 This procedure is developed from the SNCT Grievance Framework.

2. Definition of a Grievance

- 2.1 A grievance is a complaint by a Teacher either regarding their work/working conditions or where the Teacher has a feeling of injustice that he/she has been unfairly treated through:
 - The actions of either his/her management in applying Council or National terms and conditions of employment
 - The day to day operation of management/trade union local agreements, Council systems, policies, processes and procedures
 - Perceived inappropriate actions of his/her manager or other Council employee, e.g unfair allocation of work, overtime or holidays
 - Perceived concerns relating to the working environment
 - Perceived issues with working relationships not covered by Dignity and Respect at Work Policy and Procedures ([2.3](#) below)
 - Organisational change or new working methods/practices
- 2.2 In cases of doubt as to whether the issue falls within the definition set out above, the matter shall be decided by the Head of People & Transformation and Trade Union Officer (if appropriate) following consultation with the Head of Service. Matters once referred to this procedure shall remain within this procedure until either resolved, a decision reached by appeal or the matter withdrawn by the Teacher.
- 2.3 A number of the Council’s procedures contain inbuilt complaint processes which include an appeal stage. These are noted below and Teachers who wish to raise a complaint in respect of the operation of these procedures must do so through these procedures that are noted below and not through this general grievance procedure:
 - a request to review a decision to suspend from duty or an appeal against the outcome of action taken in accordance with the Disciplinary

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- Against his/her involvement in the investigatory process or any other part of the Disciplinary Procedure until the Procedure is exhausted
- A complaint in respect of the operation of the Recruitment & Selection Policy
- A complaint of malpractice or serious wrongdoing under the Public Interest Disclosure Act
- A complaint against the rejection of a request for flexible working (statutory provisions)
- A complaint of unfair selection for redundancy or the terms of a redundancy settlement
- Complaints of harassment, bullying or victimisation under Dignity and Respect at Work Policy and Procedure

2.4 The undernoted grievances/complaints raised by a Teacher are also excluded from this general grievance procedure:

- Concerning the operation and application of the Scottish Teachers' Superannuation Scheme/Scottish Teachers' Pension Scheme. These must be raised directly with the SPPA, 7 Tweedside Park, Tweedbank, Galashiels, TD1 3TE
- Concerning Premature Retirement, Actuarially Reduced Pension Scheme, Winding Down Scheme or Retirement on the Grounds of Incapacity due to Ill-Health
- Concerning the application of income tax or national insurance. These should be raised directly with Payroll, Cunninghame House, Irvine or the appropriate Inland Revenue Office

3. General Principles

- 3.1 It is recognised that the Grievance Procedure is there to allow the legitimate concerns and activities of Teachers to be raised, discussed and, wherever possible, resolved with management who must act reasonably and fairly in dealing with all grievances. Management decisions are subject to appeal.
- 3.2 It is a Teacher's duty not to raise grievances that have no serious intent or have no substance in fact, or are frivolous or vexatious.
- 3.3 The procedure is written on an individual basis but where a grievance applies to more than one person it may equally apply to a group of Teachers having a common grievance.
- 3.4 Both parties to a grievance undertake to follow through the procedure without resort to action in support of their own position. They further agree that neither they nor their representative(s) shall cause, take part in, or authorise their members or managers to take part in any form of action against the other party unless and until the procedures have been followed and exhausted.

3.5 During the progress of an issue through the Grievance Procedure, the issue, practice or activity over which the grievance has been raised shall continue to operate with the exception of:

- where the grievance has been raised in response to a proposed change to conditions of employment, or
- where practicable, where a grievance has been lodged in response to changes in working practices or organisational structures

In such circumstances, no change will be made until the agreed grievance procedure has been exhausted.

3.6 During the passage of a grievance through the formal stages the Teacher shall be given every opportunity to present evidence to support his/her case. The Teacher and/or representative, in addition to their verbal presentation, can call witnesses and submit additional written information. In addition, the Council's Education & Youth Employment management representative (including their adviser(s)) must be given every opportunity to present their case and justify a decision.

3.7 The aggrieved Teacher may at any point withdraw their grievance by giving notice in writing in which case, the Teacher shall be deemed to have abandoned the grievance.

4. Informal Procedures

4.1 A Teacher who has a grievance must raise it verbally with their manager or through informal representation by the trade union representative, stating the resolution they would like to see, and strive to resolve the issue without recourse to the Formal Procedure as noted in [section 6](#) below. A Manager who receives a grievance must respond to the grievance by discussing it with the Teacher in the first instance. It should, therefore, be the overriding objective of both parties:

- (a) to resolve the grievance as soon as possible
- (b) to do so at the point nearest to where the grievance originated

4.2 In some cases, independent assistance such as a mediator, from within or outwith the Council, can help resolve issues, especially those involving working relationships, at the informal level.

4.3 Nevertheless, it is recognised that the grievance may not be resolved at the informal level in which case the Teacher who wishes to pursue the grievance must follow the Formal procedure as noted in [section 6](#) below. It is a statutory duty of management to respond to all written grievances.

5. Recording

- 5.1 Records of all grievances within the Formal Procedure shall be retained within Education & Youth Employment and be the responsibility of Executive Director (Education & Youth Employment) to designate an officer or officers (henceforth known as the “Designated Officer”) who shall maintain such records.
- 5.2 The record of grievances received and of the actions resulting from progress through the Procedure shall be contained within the Council’s HR and Payroll System (CHRIS). Grievances shall be recorded within the Teacher’s personal record on CHRIS and the Executive Director (Education & Youth Employment) and nominated officers through the appropriate Designated Officer shall have access to the Teacher’s records.

6. Formal Procedure

6.1 Preamble

- 6.1.1 The Procedure builds in time limits to ensure matters are dealt with as speedily as possible. However, the time limits may be extended by mutual agreement to ensure full and proper investigation of the circumstances of an issue, or where such an extension may produce a resolution.
- 6.1.2 Following verbal discussions with the immediate Line Manager, if the outcome remains unresolved, the Teacher may proceed to the Formal Procedure as set out below. The Formal Procedure requires a grievance to be put in writing.
- 6.1.3 It is intended that each stage in the formal procedure shall be followed in turn, but there may be cases where use of a later stage shall be appropriate. For example, where there is a grievance against the immediate supervisor, or where after initial consideration, both parties recognise that the authority to resolve the grievance is at a higher level and agree to refer the grievance accordingly.

6.2 Stage 1 – First Meeting

- 6.2.1 A Teacher who wishes to pursue their grievance, shall set the grievance down in writing referring also to the resolution sought. The Teacher should use the [Stage 1 Grievance Form](#) and send the completed Form to the Head Teacher. Where it is the Head Teacher who is the aggrieved party, the form should be submitted to the Head of Service who will undertake the actions as noted for the Head Teacher below.
- 6.2.2 The Head Teacher shall acknowledge receipt of the grievance and ensure the details of the grievance are recorded on the Teacher’s CHRIS personal record by the Designated Officer ([paragraph 5.1](#)).

- 6.2.3 The Head Teacher shall, within ten working days of receiving the written complaint, invite the Teacher in writing to attend a Hearing in order to discuss the grievance.
- 6.2.4 The Teacher shall also be advised of the right to be accompanied at the Hearing by a representative ([section 8](#)) and must take all reasonable steps to attend the Hearing.
- 6.2.5 The Head Teacher shall discuss the grievance with the Teacher and following the Hearing, he/she shall:
- a) agree a resolution with the Teacher; or
 - b) put forward a resolution for the consideration and written response of the Teacher, or
 - c) agree to investigate the grievance further and respond to the Teacher, or
 - d) reject the grievance.
- 6.2.6 The Head Teacher shall confirm the decision in writing to the Teacher. In the case of rejection, the Head Teacher shall include the reasons for the rejection and advise the Teacher of the next stage in the procedure.
- 6.2.7 Where the decision is in accordance with [paragraph 6.2.5](#) (a), (b) or (d) above, the reply shall be made within five working days commencing with the day following the date of the Hearing. In the case of [paragraph 6.2.5](#) (c), the Head Teacher shall respond within ten working days commencing with the day following the Hearing. Only in exceptional circumstances can this period be exceeded and the Teacher shall be given an explanation of the delay and given a date when the response shall be made.
- 6.2.8 The Teacher's completed [Stage 1 Grievance Form](#) and a copy of the letter sent to the Teacher responding to the grievance shall be retained in the Teacher's personal file. The Designated Officer shall then ensure that the decision is recorded within the employee's CHRIS record.

6.3 Stage 2 – Second Meeting

- 6.3.1 If the Teacher is dissatisfied with the reply and wishes to pursue the grievance further, he or she may then raise the matter with the Head of Service or, where it is the Head Teacher who is the aggrieved party, to the Executive Director (Education & Youth Employment) who shall undertake the actions for the Head of Service as noted below. The grievance should be submitted within 10 working days of receipt of the decision as noted above.
- 6.3.2 The Teacher shall submit a [Stage 2 Grievance Form](#) to the Head of Service to request that the grievance be heard under Stage 2 of the procedure. The Teacher must state the reasons for their non-acceptance of the response under Stage 1. If appropriate, the Teacher shall also send a copy of the form to their representative.

- 6.3.3 The Head of Service shall acknowledge receipt of the [Stage 2 Grievance Form](#) and ensure the details of the grievance are recorded on the Teacher's CHRIS personal record by the Designated Officer ([paragraph 5.1](#)).
- 6.3.4 The Head of Service shall decide to either hear the grievance or to nominate another Head of Service to hear the grievance.
- 6.3.5 The Head of Service or nominee shall invite the Teacher in writing to present their grievance at a Second Stage Hearing within 10 working days commencing with the day following the date that the second stage grievance was received.
- 6.3.6 The Teacher shall also be advised of the right to be accompanied at that Hearing by a representative ([section 8](#)) and to take all reasonable steps to attend the Hearing.
- 6.3.7 Following the discussion, the Head of Service shall either:
- a) agree a resolution with the Teacher; or,
 - b) put forward a resolution for consideration and written response, of the teacher; or
 - c) agree to investigate the grievance further and respond to the Teacher; or
 - d) reject the grievance.
- 6.3.8 The Head of Service or nominee shall confirm the decision in writing to the Teacher. In the case of rejection, they shall include the reasons for the rejection and advise the Teacher of the next stage in the procedure.
- 6.3.9 Where the decision is in accordance with [6.3.7](#) (a), (b) or (d) above, the reply shall be made within five working days commencing with the day following the date of the Hearing. In the case of [6.3.7](#) (c) above, the Head of Service or nominee shall respond within ten working days commencing with the day following the date of the Hearing. Only in exceptional circumstances can this period be exceeded and the Teacher shall be given an explanation of the delay and given a date when the response shall be made.
- 6.3.10 The Teacher's completed [Stage 2 Grievance Form](#) and a copy of the letter sent to the Teacher responding to the grievance shall be retained in the Teacher's personal file. The Designated Officer shall then ensure that the decision is recorded within the employee's CHRIS record.

6.4 Reference to the Head of People & Transformation

- 6.4.1 Where the issue is not resolved, the Teacher may refer the matter to Stage 3 - Appeal ([paragraph 6.5](#) and [section 7](#)). In the case of a Head Teacher, the same process will apply.

- 6.4.2 A grievance referred to the Appeal Stage shall be sent to the Head of People & Transformation who will make the necessary arrangements for the appeal to be heard.
- 6.4.3 Prior to the Appeal being heard, however, the Head of People & Transformation may consider it appropriate that a nominated senior officer attempt to resolve the matter without it going to Appeal. Such attempts will be through discussion/meetings with the Head of Service, the Trade Union representative of the Teacher who raised the grievance and/or the Teacher. Where the Teacher is seen, he/ she is entitled to be accompanied by their representative as noted in [section 8](#) below. The combination, timing and order of such meetings/ discussions will be at the discretion of the Head of People & Transformation or nominated senior officer and may include direct discussion, mediation or conciliation.
- 6.4.4 Where the matter is resolved, the resolution shall be advised in writing by the Head of People & Transformation to the Teacher and, where appropriate, his/her Trade Union Representative.
- 6.4.5 Where the matter remains unresolved, the Teacher can decide that the grievance be heard by the Appeals Committee of the Council and this shall be the final step in the grievance procedure, except as noted in [paragraph 6.5.8](#).

6.5 Stage 3 – Appeal

- 6.5.1 Where the Teacher refers the grievance to the Appeal Stage it shall be heard by the Appeals Committee of North Ayrshire Council. In the case of a Head Teacher, the same process will apply.
- 6.5.2 The Teacher shall submit the appeal using [Stage 3 Grievance Form](#) which also requires them to set out the grounds of appeal. The Teacher shall then send the appeal to the Appeals Committee through the Head of People & Transformation within 15 working days commencing with the day after the date of the letter advising of the Stage 2 decision. Where appropriate, the Teacher shall also send a copy of the letter to their representative.
- 6.5.3 The Head of People & Transformation shall arrange for the Teacher to be advised of the arrangements for the Appeal Hearing and their entitlement to be accompanied at that Hearing by a representative ([section 8](#)) and to take all reasonable steps to attend. The Appeals Committee shall be convened at the earliest possible date within 30 working days.
- 6.5.4 The Teacher and their representative, if appropriate, together with the Executive Director (Education & Youth Employment)/Head of Service and any other appropriate manager who has been involved shall attend the Appeals Committee to present their case for consideration.
- 6.5.5 The Appeals Committee shall consider the appeal as presented by the Teacher, representative and the management following which the

Committee shall rule upon the grievance or where required, to determine on a course of action. The decision of the Appeals Committee shall be binding on all parties (unless the matter can be referred to the SNCT in accordance with [section 7](#)).

- 6.5.6 The Head of People & Transformation shall advise the employee of the Appeals Committee's decision within five working days commencing with the day following the date of the Appeals Committee meeting. A copy of the letter shall also be sent to the Teacher's representative and Executive Director/Head of Service.
- 6.5.7 The Head of Service shall ensure that the designated officer shall complete the employee's CHRIS record. The Head of Service shall also ensure that the completed [Stage 3 Grievance Form](#) and the Appeal Committee's letter is filed in the Teacher's personal file.
- 6.5.8. With the exception of grievances relating to the interpretation or implementation of a national agreement promulgated by the SNCT, the matter shall end at Stage 3 - Appeal when the Grievance Procedure shall be deemed to have been fully exhausted.

7. Stage 4 - SNCT

- 7.1. Where an employee has a grievance with his/her employing council which relates to national conditions of service and which remains unresolved after the Council's grievance procedure has been exhausted, then he/she may refer the case to the SNCT in accordance with the SNCT Appeals Procedure.

8. Representation

- 8.1 A Teacher shall have the right to be represented at all stages of the Grievance Procedure by a single companion who is either a:
- Fellow employee, who is another North Ayrshire Council employee; or
 - A full time trade union official employed by a trade union, or a lay trade union official so long as they have been reasonably certified in writing by their union as either having experience of or having received training in acting as a worker's companion at a Grievance Hearing.
- 8.2 Reasonable time off with pay shall be given to allow the Teacher, the fellow employee or lay representative both to prepare before the Hearing and for the actual Hearing.
- 8.3 When meeting within the Formal Procedure, a Teacher can offer an alternative meeting date where the representative cannot attend on the date proposed by the Head Teacher or Head of Service. However, the meeting shall normally be re-arranged within five working days beginning with the working day after the day proposed by the Head Teacher/ Head of Service.

9. The Stages, Appeals and Time Limits

Stage	Heard by	Time limit
1	<ul style="list-style-type: none"> • Head Teacher • Senior Manager • Principal Psychologist • Head of Service (if grievance raised by those listed above) 	<ul style="list-style-type: none"> • Hear grievance – 10 working days • Written response – 5 working days
2	<ul style="list-style-type: none"> • Head of Service or nominee 	<ul style="list-style-type: none"> • Submit grievance – 10 working days • Hear grievance – 10 working days • Written response – 5 working days
	<ul style="list-style-type: none"> • Reference to Head of People & Transformation 	<ul style="list-style-type: none"> • Prior to Appeal
3	<ul style="list-style-type: none"> • Appeals Committee 	<ul style="list-style-type: none"> • Submit grievance – 10 working days • Hear grievance – Within 30 days • Written response – 5 working days
4*	<ul style="list-style-type: none"> • SNCT 	<ul style="list-style-type: none"> • Determined by SNCT

* Only applicable to matters relating to National Agreement

10. References

Employment Relations Act, 1999

Employment Act, 2002

SNCT/ Handbook Part 2: Appendix 2.13 Grievance Framework