

Scottish Negotiating Committee for Teachers

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Dear Colleague

SNCT/46 **SNCT Constitution and Appeals Procedure**

The Scottish Negotiating Committee for Teachers has agreed minor amendments to the Constitution and Appeals Procedure. These are appended to this circular.

This circular replaces Annex G of the 2001 Agreement, A Teaching Profession for the 21st Century and SNCT/40 Appeals Procedure.

Yours sincerely

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Drew Morrice (Teachers' Panel)
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Joint Secretaries

To: Chief Executives
Directors of Education
Education Conveners

THE CONSTITUTION OF THE SCOTTISH NEGOTIATING COMMITTEE FOR TEACHERS

1. NAME OF ORGANISATION

The body will be known as the Scottish Negotiating Committee for Teachers (SNCT).

2. SCOPE OF THE COMMITTEE

The Committee's remit is to consider salaries and conditions of service for teachers, music instructors, educational psychologists, quality improvement officers and education support officers who are employed by Scottish Local Authorities. The objectives of the negotiating body are:

- to create a salaries and conditions of service structure that contributes to a highly skilled and highly motivated teaching profession and underpins the delivery of a quality education service;
- to ensure that the outcome of negotiations secures, and maintains, appropriate levels of remuneration for the profession to enhance professional status;
- to ensure that salaries and conditions of service reflect professional status, including the commissioning from time to time of research on the comparative external position in order to inform its deliberations.

3. MEMBERSHIP

- 3.1 The Committee will have 22 members appointed annually and drawn from the Convention of Scottish Local Authorities, the Scottish Executive and organisations representing teachers.
- 3.2 The Convention of Scottish Local Authorities will have 8 representatives and the Scottish Executive 3 representatives.
- 3.3 The 11 Teachers representatives shall be drawn from the following organisations. It will be for the Teachers' Side to determine its representation having regard to relative memberships.
 - Educational Institute of Scotland (EIS)
 - National Association of School Teachers/Union of Women Teachers (NASUWT)
 - Professional Association of Teachers (PAT)
 - Scottish Secondary Teachers' Association (SSTA)
 - Association of Headteachers in Scotland (AHTS)
 - Headteachers' Association of Scotland (HAS)
- 3.4 Failure to appoint the allocated number of representatives by any of the parties/organisations cited in paragraphs 3.2 and 3.3 will not invalidate any decision of the Committee.

- 3.5 In the event of any representative being unable to attend a meeting of the Committee, the sub-groups or working parties, then a substitute from the nominating body, as named in paragraphs 3.2 and 3.3, may attend in his/her stead.
- 3.6 Should a vacancy arise for any reason, then a new member will be appointed from the original nominating body and will be entitled to attend meetings of the Committee for the period of the previous member's appointment.
- 3.7 There will be an Annual General Meeting. At the Annual General Meeting, Office Bearers, representatives of the constituent bodies and organisations, Joint Secretaries, the Treasurer and Auditors shall be appointed and a cycle of meetings for the coming year shall be arranged.
- 3.8 The chair of the Committee will rotate amongst the three constituent Sides and there will be a designated Spokesperson for each of the constituent sides.

4. SUB-GROUPS, WORKING PARTIES AND ADVISERS

- 4.1 The Committee may establish sub-groups, working parties or commission research and investigations to serve whatsoever relevant purpose provided there is agreement to do so. The Committee may also appoint Advisers, other than those appointed for the specific purpose of advising COSLA and Teachers' Side, for such purposes.
- 4.2 The Committee, sub-group or working party, may invite any persons to attend, and speak at, any meeting because of their expertise or specialist knowledge. Any person attending such meetings acquires no formal rights or status other than the ground upon which they were asked to attend.

5. FUNCTIONS OF THE COMMITTEE

- 5.1 The functions of the Committee are as follows:
 - 5.1.1 To negotiate sustainable collective agreements on salaries and conditions of service which contribute to the development of a highly skilled and motivated teaching profession.
 - 5.1.2 To promote and support the application of such agreements in Scottish local government and the education service in particular, for the benefit of teaching staff, pupils and communities.
 - 5.1.3 To promote co-operation between Scottish Executive, employers and recognised teaching organisations.
 - 5.1.4 To support the promotion of equality and the avoidance of discriminatory practices in employment.
 - 5.1.5 To support the promotion of Continuing Professional Development.
 - 5.1.6 To provide advice and assistance to education authorities, recognised teaching organisations and employees on salaries and conditions of service matters.
 - 5.1.7 To provide a national conciliation service for the resolution of disputes that cannot be resolved locally.

- 5.1.8 To settle ultimately differences of interpretation and/or application of the national agreement that cannot be resolved locally.
- 5.1.9 To undertake any activity which assists the functions of the Committee stated above.

6. OFFICERS

- 6.1 The Committee will appoint three Joint Secretaries for administrative duties representing COSLA, the Scottish Executive and the Teachers' Side and any other officers as is deemed necessary. The Joint Secretaries representing COSLA and the Teachers' Side will be responsible for dealing with enquiries regarding the interpretation of the scheme of salaries and conditions of service.

7. APPEALS

- 7.1 If a teacher considers that he/she has a grievance with the employing authority regarding the application and/or interpretation of the national agreement on salaries and conditions of service, he/she must exhaust the employing authority's grievance procedure.
- 7.2 If a teacher is dissatisfied with the outcome of the employing authority's procedures, then he/she may ask for the case to be considered by the Joint Secretaries representing COSLA and the Teachers' Side.
- 7.3 The Joint Secretaries representing COSLA and the Teachers' Side will consider whether the teacher's case is competent, ie is based on the application and/or interpretation of national conditions of service, and will issue advice to both parties to assist resolution. If mediation or the advice from the Joint Secretaries does not resolve the matter or if there is a failure to agree, then the Joint Secretaries will refer the case to an Appeals Panel of the Committee. The Appeals Procedure of the SNCT is provided in Annex A.
- 7.4 The Appeals Panel will consist of a member from each of the three sides of the SNCT: Teachers' Side, Scottish Executive and COSLA.
- 7.5 The decision of the Appeals Panel will be final and be binding on all parties to the appeal.

8. MEETINGS OF THE COMMITTEE

- 8.1 The stipulation for the Annual General Meeting is outlined in paragraph 3.7.
- 8.2 Ordinary meetings of the Committee will be held as often as is deemed necessary.
- 8.3 The Joint Secretaries will call a special meeting if so requested by any of the three Sides of the SNCT. The notice summoning the meeting will state the nature of the business to be transacted. The meeting will take place within 14 days of a requisition being submitted by one of the Joint Secretaries.

9. NOTICE OF MEETINGS

9.1 All notices of meetings of the Committee and related committees will be sent to representative members at least 7 days before the meeting.

10. DECISION MAKING

10.1 Decisions of the Committee will be by the agreement of all three Sides.

10.2 Where there is a failure to agree any one Side may declare a dispute.

11. QUORUM

11.1 The quorum for Committee meetings is no less than one third of members of each of the three constituent bodies.

12. FINANCE

12.1 The administrative expenses of the Committee and related committees, and other relevant expenditure agreed by the Committee excluding the personal expenses of representatives which shall be met by the respective sides, shall be borne equally by the three Sides unless otherwise agreed.

13. AMENDMENTS TO THE CONSTITUTION

13.1 The constitution may only be amended with the agreement of the Committee.

14. ARBITRATION

14.1 Any dispute may, with the consent of the Committee, be referred to arbitration.

Scottish Negotiating Committee for Teachers Appeals Procedure

1. Purpose

- 1.1 Where a teacher has a grievance with his/her 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 Lodging the Appeal

- 5.1.1 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 shall normally respond within one calendar month unless additional information is sought from the appellant or the employer. In such circumstances the Joint Secretaries shall respond within one calendar month of the receipt of the additional information.
- 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 a failure to agree occurs on a condition of service matter the LNCT constitution shall determine what happens in such circumstances.
- 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.