

East Dunbartonshire Council

Education Procedure Manual 2/19

Grievance Procedure Manual

For

Teachers and Employees on Scottish Negotiating Committee for
Teachers (SNCT) Conditions of Service



Education, People & Business

September 2022

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1. POLICY STATEMENT

- 1.1 The Council is committed to the fair and consistent treatment of all employees to create a positive working environment. This policy aims to ensure that any grievances arising from employment are resolved quickly and to the satisfaction of all concerned with minimal disruption.
- 1.2 The Council, in partnership with Trade Union colleagues, recognises the importance of mechanisms for employees to raise concerns and this policy has been developed in accordance with the ACAS Code of Practice on Disciplinary and Grievance Procedures (2019), with strong emphasis on informal resolution where appropriate.

2. SCOPE

- 2.1 This Procedure Manual 2/19 - Grievance Procedure applies to all teachers and employees on SNCT Conditions of Service.
- 2.2 All employees not on SNCT conditions of service must refer to the Grievance at Work Policy.
- 2.3 For the purposes of this policy, a grievance is:
- A means of addressing concerns, problems or complaints that employees raise with their employer;
 - A way of resolving issues in a reasonable and transparent way;
 - A two way process of reaching a resolution;
 - Underpinned by a fair and objective approach.
- 2.4 Issues that may cause grievances include:
- Terms & Conditions of Employment;
 - Health & Safety;
 - Work Relations;
 - New Working Practices;
 - Working Environment;
 - Organisational Change;
 - Discrimination.
- 2.5 Matters in relation to bullying, harassment or victimisation should in the first instance be considered under the Council's Dignity at Work Policy. The Education Procedure Manual 2/19 – Grievance Procedure should only be utilised for allegations of bullying and harassment when the employee is unsatisfied with the outcome through the Dignity at Work Policy.
- 2.6 The following matters are excluded from the Grievance Policy as they are covered by separate procedures:
- Matters dealt with under SNCT Disciplinary Framework and EDC Education Procedure Manual 2/18: Disciplinary Procedures for Teachers and Employees on SNCT Conditions of Service;

- Matters which are already subject to fact finding;
- Allegations covered by the Council's Whistleblowing Policy;
- Matters related to the PDR Framework;
- Matters relating to Flexible Working Requests;
- Any matter relating to terms and conditions regulated by the SNCT except where the Grievance relates to the interpretation or application of a part of the provision to an individual employee
- Matters concerning national agreements (other than local interpretations);
- Complaints relating to statutory sick pay schemes;
- Complaints relating to the Scottish Public Pensions Agency
- Matters out with the scope or responsibility of the Council;
- Matters related to Equal Pay will follow a separate established procedure.

Grievances received which are "excluded" (as defined by paragraph 2.5) will be deemed "not competent" and will not be considered in line with the Grievance Procedure.

- 2.7 Where grievances are received from ex-employees who no longer work for the Council advice should be sought from a HR Case Adviser, as a modified two step grievance procedure can be used in these circumstances.

3. REFERENCES AND RELATED DOCUMENTS

- 3.1 This forms part of the Council's Policies and Procedure base surrounding employment and certain policies, procedures and toolkits may be referenced throughout this document. This policy has been developed to ensure compliance with relevant employment legislation.
- 3.2 This policy should be applied with reference to the Charter of Roles & Responsibilities for Employment based Policies and Procedures.
- 3.3 This policy is informed by the following:
- Scottish Negotiating Committee For Teachers (SNCT) Handbook of Conditions of Service: Grievance Framework
 - East Dunbartonshire Council's Grievance at Work Policy
 - Advisory, Conciliation and Arbitration Services (ACAS) Disciplinary and Grievance Procedures Code of Practice.

4. DEFINITIONS

- 4.1 **Grievance** - The ACAS Code of Practice relating to Grievance at Work refers to Grievances as "concerns, problems or complaints that employees raise with their employers". Employees may, at some time, have problems or concerns about their work, working conditions or relationships with colleagues that they wish to talk about with their line manager. In circumstances in which an employee is unclear whether the issue they wish to raise or have addressed would fall under the scope of the policy, advice should be sought from their HR Case Adviser.
- 4.2 **A companion/employee representative** may be a fellow worker, Trade Union Representative or

Official employed by a Trade Union. Individual representatives from appropriate support groups may be considered as a companion by prior arrangement. A representative acting in a legal capacity will not be con

5. POLICY OUTLINE

5.1 *Best Practice Principles*

The Council takes the approach of aiming to resolve disputes informally in the first instance to avoid formal processes being taken in all cases. It is recognised that this is not always possible and that there may be circumstances that do not lend themselves to this approach.

All Grievances will be dealt with as follows:

- Consider an **informal approach** as the first step in resolving issues.
- Issues should be raised in writing and dealt with **promptly** without unnecessary delay using the notification of grievance form where possible;
- Managers and employees involved should act **consistently**;
- Managers should carry out any necessary investigations to establish the facts of the case.
- Any grievance hearing will be conducted by a **manager not involved** in matters giving rise to dispute;
- Employee **outlines the basis of the problem** and has the opportunity to present their case before decisions are made;
- Consideration given to any reasonable adjustments to assist employees in formulating a written grievance and/or to engage in the process for an employee with a disability.
- Address any mitigating factors raised in the process;
- In cases where the line manager is the subject of the grievance, employees should be able to discuss their concerns with another manager or raise the issue directly with their HR Case Adviser;
- The **right to be accompanied** at any grievance meeting/hearing;
- Decisions communicated in writing without unnecessary delay;
- The **right of appeal** against formal decisions made.

5.2 *Informal Resolution*

Informal action should always be considered as a first step in addressing an issue which has been raised by a teacher to avoid the matter being progressed through formal procedures. This also allows for problems to be settled quickly. Whilst recognising that the nature of a teacher's grievance can be very wide, in many instances it can best be resolved in an informal manner in open discussion with the teacher's head teacher or in writing.

The informal discussion may include identifying the nature and cause of the problem, possible action and their implications. In having an informal discussion, outcomes may be identified and can include mediation, coaching and training.

In the case of a Head Teacher being aggrieved, the matter should be discussed with the Chief Education Officer.

If the grievance is against a Head Teacher, the matter should be discussed with the Chief Education Officer.

The Head Teacher or Chief Education Officer, as appropriate, should respond within 5 days to an informal approach, not necessarily in writing. Where delay occurs, all parties involved will be informed of the reason for the delay and a revised timeframe will be given.

If the aggrieved party is dissatisfied with the response or if no response has been forthcoming within 5 working days, or where there has been no communication of delay, the employee may initiate the first stage of the formal grievance procedure.

5.3 **Formal Grievance Guidance**

At all stages within the grievance procedures, a teacher will have the right to withdraw the grievance at any time and resolve the matter through an agreed alternative method.

If a teacher raises a grievance during a disciplinary process, there may be a requirement to temporarily suspend the disciplinary process in order to deal with the grievance. Where the grievance and disciplinary cases are related it may be appropriate to deal with both at the same time.

5.3.1 **Raising a Formal Grievance**

The Council aims to resolve issues at the informal stage where possible however, it is recognised that this will not always be possible. If the matter is not resolved to the teacher's satisfaction, they should raise a **grievance formally** using the 'Notification of Grievance Form' (Standard Form PM2/19/1) contained in within the Grievance Toolkit for Managers, which should be completed with all relevant information relating to the grievance.

The "Notification of Grievance Form" should be submitted to the Head Teacher or the Chief Education Officer as appropriate. Where the Head Teacher is the aggrieved party, the "Notification of Grievance Form" should be submitted to the Chief Education Officer.

There may be circumstances where it would not be appropriate for the Head Teacher to hear the Grievance at Stage 1, in which case the Grievance should be submitted directly to the Chief Education Officer. It may also be the case where the Head Teacher does not have the power or authority to sanction a solution to a grievance that may be available at, for example, a higher level.

The information included in a grievance should outline clearly the main points of the complaint, the

teacher should focus on the facts and avoid language which may be considered insulting or abusive. The information should also include any informal action taken by the teacher/manager and the remedy proposed to resolve the issues where appropriate.

The Flowchart on Page 11 gives an overview of the process of addressing a grievance through to exhausting the procedures.

5.3.2 Grievance Hearing

A grievance hearing with the teacher should be arranged, without unreasonable delay after a grievance is received to establish the facts of the written information submitted. The teacher will normally be provided with at least 7 calendar days' notice of the date of the formal grievance hearing. The employee should be informed in writing, using the Standard Letter PM2/19/1, contained in the Grievance Toolkit for Managers, about the date time and venue for the grievance hearing, along with the procedures to be followed and the right to be accompanied by a companion.

This hearing will allow the teacher to present their case, provide any supporting evidence relating to the grievance and propose the way they see the issue being resolved. A written record will be taken of the hearing however, no electronic recording devices will be permitted in the course of any hearings.

In certain cases there may be a need for a grievance hearing to be postponed to establish the facts of the issue. In such circumstances, continued communication with the teacher is essential. Where appropriate the Head Teacher or the Chief Education Officer (or nominee) hearing the grievance will conduct a fact finding using the appropriate Fact Finding paperwork, contained in the Grievance Toolkit for Managers, to establish the facts of the case.

All teachers will have the right to be accompanied by a companion/employee representative.

Any mitigating factors that are highlighted within the process of the grievance hearing will be considered in line with the information presented and the facts surrounding these should be established where necessary. It may be appropriate to take an adjournment to allow any mitigating factors or further information required to be addressed.

In the interests of consistency, a standard format for grievance hearings will be followed. Guidance on the Format of Formal Grievance Hearings is contained in the Grievance Toolkit for Managers, including information on adjournments and effective note-taking.

5.3.3 Right to Representation

Teachers must make a reasonable request to exercise the right to be accompanied. If a teacher's chosen companion will not be available at the time of the proposed hearing, the Council will postpone the hearing to a time proposed by the teacher provided that the alternative time is both reasonable and not more than 7 calendar days after the date originally proposed. Extension to the 7 calendar days can be agreed with mutual agreement.

Individual representatives from appropriate support groups may be considered as a companion by prior arrangement.

The companion **can**:

- Address the hearing to put and sum up the teachers case;
- Respond on the teachers behalf to any views expressed at the hearing;
- Confer with the teacher during the hearing.

The companion **does not have the right to**:

- Answer questions on the teachers behalf;
- Address the hearing if the teacher does not wish it;
- Prevent the employer from explaining their case.

5.3.4 Decision made on an appropriate Outcome

All information presented will be considered and a fact finding investigation may be required to establish the facts of the case or any mitigating factors that were highlighted during the hearing. The teacher will be informed of the outcome of the grievance hearing in writing without unreasonable delay. If a teacher does not feel that the issue is resolved satisfactorily they have the right of appeal. An appeal form will be included with the outcome letter outlining the decision at the grievance hearing.

5.3.5 Outcomes of the Hearing/Appeal

The appropriate officer(s) hearing the grievance/appeal may take the following action which will be confirmed to the employee:

- Uphold the grievance;
- Uphold the grievance in part; or
- Not to uphold the grievance.

For all 3 outcomes the Standard Letter PM2/19/2 contained in the Grievance Toolkit for Managers) will outline the reasons for this decision to the employee.

5.3.6 Appeals Procedure

Grievance Action	Authorised Level of Management to hear Appeals against Grievance Decision
Formal Grievance Hearing	Head Teacher
Appeal Hearing (Appeal 1)	Chief Education Officer (or nominee)
Appeal Hearing (Appeal 2)	Education Appeals Board

For Grievances raised against Head Teacher

Grievance Action	Authorised Level of Management to hear Appeals against Grievance Decision
Formal Grievance Hearing	Chief Education Officer (or nominee)
Appeal Hearing (Appeal 1)	Executive Officer/Depute Chief Executive
Appeal Hearing (Appeal 2)	Education Appeals Board

For Chief Education Officer

Grievance Action	Authorised Level of Management to hear Appeals against Grievance Decision
Formal Grievance Hearing	Depute Chief Executive or Chief Executive
Appeal Hearing (Appeal 1)	Chief Executive or Appeals Sub Committee **
Appeal Hearing (Appeal 2)	Education Appeals Board

** An Education Appeals Sub Committee or Appeals Board Committee will be made up of appropriate Elected Members.

A teacher has the right of appeal against decisions where they feel the action taken is unfair in the circumstances. The appeal should be submitted in writing within 14 calendar days of the response to the initial grievance/appeal hearing using the Notification of Grievance Appeal Form (Standard Form PM2/19/4) indicating the reasons for continuing dissatisfaction and reference to the resolution sought by the aggrieved party. This is in accordance with the SNCT Conditions of Service.

The appeal hearing(s) will be arranged without unreasonable delay. The teacher will normally be provided with at least 7 calendar days' notice of the appeal hearing, in writing using Standard Letter PM2/19/3. Only in exceptional circumstances may an appeal be held out with this period. The outcome of the appeal should be confirmed to the employee without unreasonable delay and within 7 calendar days. Where there is any delay to this the employee should be informed.

If the employee remains dissatisfied with the response from the Chief Education Officer (or nominee), there shall be the right of appeal to the Education Appeals Board.

The employee should complete a formal written statement of appeal, using the **Notification of Grievance Appeal Form (Standard Form PM2/19/4)**, contained within the **Toolkit for Managers**.

The information provided in the Notification of Grievance Appeal Form should outline clearly the reasons for continuing dissatisfaction and reference to the resolution sought by the aggrieved party.

Employees can contact the HR Case Adviser Team for assistance in completing this form.

The employee should submit the completed form to the Education Appeals Board (as indicated on the Notification of Grievance Appeal form) within 14 calendar days of receipt of the letter confirming the outcome of the appeal hearing.

A hearing will be arranged in line with the Education Appeals Board timetable and, where possible, this will be within 20 working days (or otherwise by mutual agreement) of receipt of the written statement of grievance appeal. Where delay occurs, all parties involved will be informed of the reason for the delay and a revised timeframe will be given.

Details about the date, time, location and format of the appeal hearing will be communicated to the employee.

After consideration of all the information presented, the Education Appeals Board hearing the grievance appeal may take the following action:

- Uphold the grievance
- Uphold the grievance in part
- Not uphold the grievance

The outcome of the appeal together with the reasons for the decision should be confirmed to the employee in writing using **Standard Letter PM2/19/5**, normally within 10 working days. Where delay occurs, all parties involved will be informed of the reason for the delay and a revised timeframe will be given.

Appeal Hearing 2 marks the conclusion of the internal Grievance Procedures.

The final decision of the council can be submitted to the Joint Secretaries of the Scottish Negotiating Committee for Teachers (SNCT) for consideration through its appeals process only if the subject matter of the original grievance relates to the interpretation or implementation of a national agreement promulgated by the SNCT.

5.3.7 Concluding the process

There may be circumstances that will require follow up action even if a grievance has not been upheld. The nature of the grievance may have had an impact on working relationships or the working environment and line managers will work to address any difficulties through informal methods.

6. GDPR STATEMENT

- 6.1 East Dunbartonshire Council holds, uses and processes information in accordance with the General Data Protection Regulations and all other relevant national data protection laws. Further information detailing how East Dunbartonshire holds and uses personal information and copies of privacy notices used throughout the Council are available on our website: www.eastdunbarton.gov.uk/council/privacy-notices.

7. POLICY REVIEW STATEMENT

- 7.1 This policy will be reviewed in two years or in line with:

- Legislative Change
- Changes to SNCT National Conditions of Service
- Other external factors.
- Evaluation of the effectiveness of the policy.
- Requests for review by Elected Members, Trade Unions and / or Management

Other Formats & Translations

This document can be provided in large print, Braille or on audio cassette and can be translated into other community languages. Please contact the Council's Corporate Communications Team at:

East Dunbartonshire Council, 12 Strathkelvin Place, Southbank
Kirkintilloch G66 1TJ Tel: 0300 123 4510

本文件可按要求翻譯成中文，如有此需要，請電 0300 123 4510 -

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ਇਸ ਦਸਤਾਵੇਜ਼ ਦਾ ਮੰਗ ਕਰਨ ਤੇ ਪੰਜਾਬੀ ਵਿੱਚ ਅਨੁਵਾਦ ਕੀਤਾ ਜਾ ਸਕਦਾ ਹੈ। ਕਿਰਪਾ ਕਰਕੇ 0300 123 4510 ਫੋਨ ਕਰੋ।

Gabhadh an sgrìobhaile seo cur gu Gàidhlig ma tha sin a dhìth oirbh. Cuiribh fòn gu 0300 123 4510

अनुवाद करने पर यह दस्तावेज हिन्दी में भाषांतरित किया जा सकता है। कृपया 0300 123 4510 पर फोन कीजिए।

APPENDIX 1: PROCESS INFORMATION: FORMAL GRIEVANCE FLOWCHART

