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etb

Bord Oideachais agus
Oiliúna Dhún na nGall
*Donegal Education and
Training Board*

Grievance Procedure for Staff employed by Donegal Education and Training Board (ETB)

Original Grievance Procedure nationally agreed on 31 March 2010
Amended 1 July 2013 in line with the provisions of the Education and
Training Boards Act, 2013

Revised for application on 15 February 2016

CLARIFICATION

This revised Procedure supersedes all previous versions of the nationally agreed Grievance Procedure and any pre-existing local grievance procedures.

This Procedure applies to all grievances lodged from the date of issue. Where a process regarding a matter of grievance has commenced under previous version/s of the Grievance procedure and is not yet concluded, that process should now continue using the revised procedures contained in this Procedure, from the corresponding stage.

Issued by the ETBI/Unions' Consultative Forum

15 February 2016

INTRODUCTION

An extensive process of consultation was undertaken resulting in the first nationally agreed version of the Grievance Procedure launched in the then Vocational Education sector on 31 March 2010. Critical to the consultative process and the emergence of the Procedure was the input, advice and support provided by the then Labour Relations' Commission's (LRC) Conciliation Service.

With the enactment of the Education and Training Boards Act, the Grievance Procedure was amended in line with legislative requirements and a revised version of the Procedure issued for application in the Education and Training Boards (ETB) sector on 1 July 2013.

A review was undertaken at national level by the ETBI/Unions' Consultative Forum and a revised version of the Grievance Procedure applies in the ETB sector with effect from 15 February 2016.

The procedure is prepared in accordance with S.I. No. 146/2000 - Industrial Relations Act, 1990 (Code of Practice on Grievance and Disciplinary Procedures) (Declaration) Order, 2000.

There is a statutory obligation on employers to provide all new employees with written details of disciplinary and grievance procedures, within 28 days of taking up employment.

Donegal Education and Training Board (ETB) will provide a copy of this Grievance Procedure to staff on appointment within this timeframe and will include the procedure in employee programmes of induction.

POLICY

It is the policy of Donegal Education and Training Board to:

- Encourage management at all levels to develop channels of communications and working relationships that will prevent or minimise the incidence of grievances.
- Endeavour to foster a working environment and working relationships in which the informal resolution of differences is the norm.
- Provide effective and fair facilities by which staff can seek redress of grievances.
- Resolve grievances fairly within the timeframes specified in the stages and at the earliest stage when a grievance/s arises.

Reasonable time off (with substitution where required) should be granted to union representatives to facilitate their attendance at meetings convened and directly related to the processing of a grievance.

In each ETB school, college, centre and office, management and unions should agree structures for consultations through which any proposals for changes in working conditions or work practices affecting the terms of employment of the staff may be discussed prior to their proposed implementation. In the absence of agreement about such proposals, both parties should maintain the status quo ante which refers to and describes the position that obtained immediately prior to the decision/action/change that gave rise to the collective grievance involving the majority of staff affected by the proposed change. In the event of a dispute about such proposals, the staff member or staff members concerned, may process and determine the issue through this Grievance Procedure which has been agreed between management and trade unions representing staff.

PRINCIPLES

The agreed Grievance Procedure provides a comprehensive method for the resolution of grievances in the interests of the avoidance of conflict. Issues raised under it will be processed in accordance with the principles of full consultation and agreement during the process and in accordance with the general principles of natural justice and fair procedures which include:

- Where engaged, the parties are expected to participate in, and abide by, the provisions of the procedure.
- The ETB CE has the right to delegate an officer of the ETB to hear the grievance in his/her stead at stage 3 or indeed any stage within the grievance procedure.
- The employee/s concerned has/have the right to a fair and impartial determination of the issues concerned, taking into account any representations made by, or on behalf of, the employee/s and any other relevant or appropriate evidence, factors, circumstances.
- The employee/s concerned is/are given the opportunity to avail of the right to be represented during the procedure¹
- An employee/s will not be penalised in any way for making a complaint in good faith regardless of whether or not the complaint is upheld.
- Pending the outcome to the processing of a grievance under the Formal Procedure, both parties will maintain the status quo ante which refers to and describes the position that obtained immediately prior to the decision/action/change that gave rise to the collective grievance involving the majority of staff affected by the proposed change.
- Every effort shall be made to adhere to the time limits prescribed in the procedure. The time limits laid down for Stages 2, 3 and 4 under the Formal Procedure may be extended only by mutual agreement of the parties concerned.
- All relevant documentation concerning the grievance shall be made available at each of the meetings at each of the stages of the procedure.
- An employee/s may withdraw a complaint at any stage of the procedure. There is no impediment to an aggrieved employee confirming withdrawal from the provisions of the nationally agreed Grievance Procedure and seeking recourse outside of the procedure in line with statutory entitlements. In such circumstances, the Grievance Procedure provisions terminate at that point and cannot be re-engaged.
- In the event that a grievance is referred to a third party, both sides will co-operate fully with the proceedings in accordance with the Industrial Relations Acts, 1946 – 2001.
- The Grievance Procedure shall not operate during periods of approved leave unless by mutual agreement of the parties.
- **“Notice” of proposed meetings/hearings under this procedure:**
“Notice” counts from the next working day directly after the date the notice is sent/posted/emailed

¹ For the purposes of this procedure, “representative” includes a colleague of the employee’s choice or a registered trade union representative/s but not any other person/body unconnected with the ETB. At any given meeting/hearing under this procedure, a single spokesperson shall be nominated to speak on behalf of each party. Commentary may also be invited from others present.

DEFINITION OF A GRIEVANCE

A grievance may be defined as a complaint which an employee/s has concerning any aspect of his/her/their employment, working environment or professional working relationships.

The process is for the purpose of discussing and resolving matters which are not subject to the Teachers' Conciliation Council or national industrial relations fora. This procedure covers individual and collective grievances, i.e. complaints raised by or on behalf of a group of employees. In cases where there is a collective grievance arising across a multiple number of schools/colleges/centres/offices operated by an individual ETB – the procedure can be used but should be commenced at stage 3.

EXCLUSIONS

The grievance procedure does not cover:

- Matters relating to improvements in pay or existing terms and conditions of employment which are of general application, i.e. matters appropriate to the collective bargaining process or;
- Matters which will develop into a claim covered within the scope of the (Teachers') Conciliation and Arbitration Scheme or;
- Matters which will form a claim for statutory entitlement where provisions already exist within the State's IR machinery for the hearing and/or adjudication of such issues.
- Complaints of bullying/harassment or sexual harassment shall be dealt with under the agreed sectoral Codes for dealing with such complaints.
- Any matter which comes within the ambit of the Department of Education and Science circular letter 59/2009.
- Anonymous allegations.
- Matters which are the subject of legal proceedings.
- Matters unrelated to employment.

INFORMAL RESOLUTION OF GRIEVANCES

Management and employee opinions may be at variance on occasion but most routine complaints are capable of being resolved on an informal basis without recourse to the formal grievance procedure. Where a complaint arises, the parties concerned (staff member/s and management representative/s) are encouraged to strive to understand the other party's position and should seek, as far as possible, a mutually acceptable solution through informal means.

Without prejudice to his/her right to invoke immediately the Formal Grievance Procedure, a staff member who believes s/he has been treated unjustly or unfairly is encouraged to raise his/her grievance with his/her Principal/Co-ordinator/immediate supervisor as a matter of first instance, or to raise his/her grievance through an informal approach by his/her union representative.

MEDIATION

Mediation if appropriate and subject to the agreement of the parties to the grievance is not excluded by way of a mechanism to resolving grievance/s at informal or formal stages.

FORMAL PROCEDURE

Stage 1

The staff member/s or his/her/their union representative/s or representative/s shall set out the grievance in writing, to the Principal/Co-ordinator/immediate supervisor who shall arrange a meeting between the parties as soon as possible but no later than **5 working days** from the date of receipt of the grievance. At this meeting both sides shall seek a mutually acceptable resolution of the grievance.

A statement of the outcome of the meeting shall be prepared by the recipient of the grievance for signing off by both parties. If the matter is not resolved, it will be referred, by the recipient, to a Stage 2 meeting to be held within a further **10 working days**.

Stage 2

A stage 2 meeting shall be attended by the Principal/Head of Centre/Head of Section and the employee/s, and/or the relevant trade union representative/s. The Principal/Head of Centre/Head of Section may be accompanied by a Deputy Principal/senior colleague from the school/centre/office.

At this meeting both sides shall seek a mutually acceptable resolution of the grievance. A statement of the outcome of the meeting shall be prepared by the Principal/Head of Centre/Head of Section for signing off by both parties. If the matter is not resolved, it will be referred, by the Principal/Head of Centre/Head of Section to a Stage 3 meeting to be held within a further **10 working days**.

In the event of a complaint being made against a Principal/Head of Centre/Head of Section, the Grievance Procedure will commence at stage 2 by the submission of the grievance in writing, to the Principal/Head of Centre/Head of Section. A copy of the grievance shall be simultaneously forwarded by the aggrieved party/ies to the Head of HR.

The Principal/Head of Centre/Head of Section shall arrange a meeting within 7 working days of receipt of the grievance. This stage 2 meeting shall be attended by the Principal/Head of Centre/Head of Section and the employee/s, and/or the relevant trade union representative/s. The Principal/Head of Centre/Head of Section may be accompanied by a Deputy Principal/senior colleague from the school/centre/office.

At this meeting both sides shall seek a mutually acceptable resolution of the grievance. A statement of the outcome of the meeting shall be prepared by the Principal/Head of Centre/Head of Section for signing off by both parties. If the matter is not resolved, it will be referred, by the Principal/Head of Centre/Head of Section to a Stage 3 meeting to be held within a further 10 working days.

Stage 3

3A

If the matter has not been resolved at stage 2, the relevant trade union/branch representative should seek a meeting with the Chief Executive² on behalf of the aggrieved employee.

If the grievance is resolved through a conciliated process, the matter is concluded.

If the grievance is not so resolved, the Chief Executive shall adjudicate on the grievance and shall convey a decision, in writing, to the aggrieved employee and to any other party/parties concerned, within **10 working days** of the hearing specified at Stage 3.

²The **CE may** nominate a delegated officer to deal with the matter in accordance with his/her executive authority as prescribed under Section 16 of the Education and Training Boards Act, 2013.

3B

In the event of a complaint being made against a Chief Executive, the Grievance Procedure will commence at stage 3 by the submission of the grievance in writing, to the Chief Executive. A copy of the grievance shall be simultaneously forwarded to the Head of HR by the aggrieved party/parties.

The HR Manager shall arrange a meeting within **7 working days** of receipt of the grievance. The CE may nominate a delegated officer to deal with the matter at stage 3 in accordance with his/her executive authority as prescribed under Section 16 of the Education and Training Boards Act, 2013. The stage 3 meeting shall be attended by the Chief Executive and the employee/s, and/or the relevant trade union representative/s. The Chief Executive may be accompanied by a colleague/s.

At this meeting both sides shall seek a mutually acceptable resolution of the grievance. A statement of the outcome of the meeting shall be prepared by the Chief Executive or delegated officer so assigned for the purpose of conducting matters relating to stage 3, for signing off by both parties.

Stage 3 shall conclude with a determination by the Chief Executive or delegated officer so assigned for the purpose of conducting matters relating to stage 3. Appeals of a stage 3 grievance determination shall be made in accordance with stage 4.

In the event that other ETB line manager/s are cited as part of the grievance, the Chief Executive or delegated officer so assigned for the purpose of conducting matters relating to stage 3, shall inform him/herself of the views of any such party/parties cited in the grievance complaint as appropriate.

Stage 4

Stage 4 concerned to ETB teachers and certain other grades/staff that do not currently have access to the WRC/Labour Court under the State's IR machinery:

It is open to an aggrieved party to appeal the decision from Formal Procedure Stage 3 to Formal Procedure Stage 4 which will be heard by an independent officer, nominated by the Labour Relations' Commission and agreed between the respective signatories to this Grievance Procedure. In activating this stage of the procedure, written submissions (and supporting documentation) should be made directly to the independent officer within **10 working days** of the date of the issuing of the decision by the CE at Stage 3. The written submissionn and supporting documentation should be simultaneously copied to the CE of the ETB, by the aggrieved party.

It should be clearly understood that by invoking Stage 4 of this procedure, that the emphasis involves conciliation with a view to resolution between the parties of the grievance/s at hand. However, in the event that this is not achieved – the parties will be subject to a decision adjudicated upon which will be binding on the parties.

The independent officer will be responsible for inviting the parties to the grievance to attend an oral hearing/s on a date so determined by him/her but which ideally would not exceed **20 working days** from the date of referral by the party invoking stage 4. All documentation submitted to the independent officer by either party should simultaneously be copied by that party to the other party no later than **5 working days** in advance of the date of the oral hearing.

At the oral hearing/s each party shall be invited to speak to their written statements (which will have been submitted no later than **5 working days prior to the oral hearing/s date**) following which the independent officer will seek to conciliate a resolution of the grievance between the parties concerned.

Only in the event that the parties fail to reach agreement through this conciliated process, will the independent officer adjudicate an outcome on the grievance/s which shall be understood to be binding on the parties.

The independent officer will have recourse, as s/he may require/determine, to technical advisory assistance only, concerning the specific nature of the grievance at issue. This may be undertaken by contacting both a management and union nominee understood to have particular expertise in the nature of the grievance concerned who would assist in providing advice as determined appropriate and on request only from the independent officer.

A statement of the outcome of the conciliated agreement or, in the event of a binding decision having been necessitated, a statement detailing this determination, will issue no later than **20 working days** from the date of the oral hearing and conveyed to the CE of the ETB (for implementation) and copied to the party/parties concerned to the grievance. This shall conclude the Grievance Procedure.

Stage 4 concerned to other ETB employees:

In the case of all other ETB staff, referral of the grievance beyond the conclusion of stage 3 would be to the appropriate WRC forum in accordance with normal practice.

ADOPTION AND REVIEW

ETB ADOPTION DATE

This Grievance Procedure has been formally adopted by Donegal ETB on **17th September 2018**

REVIEW

This Grievance Procedure will arise for review by the parties to this agreement at national level no later than four years from the official implementation date.