

Grievance Policy (Teaching Staff)

The Council recognises the importance of maintaining good working relationships between colleagues and seeks to promote an environment where any problems that arise can be discussed and dealt with easily and at an early stage.

The Council believes that most cases can be resolved informally through honest and open discussion, however in some cases, this may not be possible or appropriate and a formal grievance may need to be raised.

[Our Behaviours](#) of Respect, Integrity & Flexibility should be demonstrated throughout every stage of this process.

This policy outlines the grievance process, informally and formally and highlights the roles and responsibilities of those involved and the support that is available.

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Scope

This policy applies to all teaching staff whose terms and conditions of employment are regulated by the SNCT.

This policy does not apply to those who have left the Council. In these circumstances, a Modified Grievance Procedure can be used as outlined in by Scottish Negotiating Committee for Teachers (SNCT).

Purpose

The purpose of this policy is to provide guidance to colleagues on how to raise and resolve any issues which may arise within the workplace

Review

The policy will be reviewed as and when a change to the existing policy deems this necessary, primarily as a result of: changes to legislation or statute; agreement of new national terms and conditions of service or Government Policy; organisational change; or resulting from changes agreed through Trade Union Consultation.

Local Agreement

This policy is a local collective agreement between the Council and our recognised Trade Unions. We will make every effort to ensure that it is maintained as a local collective agreement. Any changes will be made by agreement. If we cannot agree, either party can end the local collective agreement by giving four months' notice in writing, with the policy ceasing to apply to staff at the end of that period.

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1. Policy Aims

The aim of this policy is to ensure any issues which may be raised by colleagues are dealt with in a fair and timely manner. This policy also aims to ensure that a consistent approach is applied when seeking a resolution to any workplace issues, raised formally and informally.

This policy is designed to:

- provide a framework outlining the grievance procedure, explaining how to raise issues and what happens when you do;
- encourage issues to be raised and resolved at the lowest appropriate level;
- provide a safe and timely process in ensuring issues are resolved; and
- support colleagues who are faced with workplace issues.

This policy and the supporting user guide will be applicable when you have a workplace issue regarding:

- terms and conditions of employment;
- health and safety at work;
- workplace relations;
- new working practices;
- the working environment;
- organisational change;
- discrimination on the grounds of race, sex, sexual orientation, religion, disability, age, gender reassignment, marital status, or ethnic origin; and/or
- bullying and harassment.

We operate a separate Whistleblowing Policy to enable colleagues to report illegal activities, wrongdoing or malpractice.

This policy seeks to promote a culture where colleagues can raise concerns without fear of victimisation or recrimination and provides a procedure where a complaint or concern will be addressed quickly.

Whilst the Council is confident that most of the cases raised by staff are genuine and made in good faith, if a grievance is found to be deliberately vexatious or malicious it will be treated as a serious disciplinary offence under the Council's Disciplinary Policy and, following any separate due process, appropriate sanctions, up to and including gross misconduct, may be applied.

What does not fall under this Policy?

In some instances, a concern or issue you wish to raise may not amount to a grievance or may not be within the scope of this policy and therefore the issue may be better to be raised under one of the other Council policies. If you are unsure, please seek advice from the [askHR team](#).

Please find some (non-exhaustive) examples of matters which are unlikely to fall under this policy below:

- **Effective Management:** we expect our managers to lead and manage colleagues who report into them. This involves setting performance standards and making sure that these are understood. It also involves dealing with colleagues in a respectful and constructive way if they fall below the expected standards. Grievances submitted in response to formal procedures being undertaken (including the Performance Management Policy) are unlikely to be considered to be competent except where performance standards can be objectively shown to be discriminatory, unfair or unachievable as this may constitute bullying or harassment, or where the correct procedures to support colleagues with performance issues have not been followed, and it is evident policies are not being followed correctly.
- **Dismissal or disciplinary action:** this policy should not be used in response to dismissal or disciplinary action. If you are dissatisfied with any disciplinary action, you should submit an appeal under the Disciplinary Policy.
- **Grading appeals:** this policy should not be used to challenge a job evaluation outcome following a grading review. If you are dissatisfied with the outcome of a job sizing review, you should submit an appeal under the Grading Appeals Process.

Collective Grievance

In cases where more than one colleague wishes to raise an issue or complaint in relation to the same matter, the grievance should be heard as one grievance - this is known as a collective grievance.

Colleagues raising a collective grievance should appoint a maximum of 3 spokespeople to act as representatives for their group and, where a case cannot be resolved informally, they should submit a formal grievance form which all members of the group must sign. The statement must clearly outline that the grievance should be heard 'collectively' and should follow the same process outlined in this policy for both informal and formal complaints.

Where collective grievances are in relation to bullying and harassment, one Nominated Officer will be appointed but meetings may take place separately.

Further detailed information on the informal and formal processes and how to submit complaints can be found in the supporting User Guide.

Status Quo Ante

In the event of a formal grievance being lodged in response to a proposed change to terms and conditions of employment and, when practicable, where a grievance has been lodged in response to changes to working practices or organisational structures, no change shall be made to the relevant terms and conditions of employment until the agreed grievance procedures have been exhausted.

2. Roles and Responsibilities

Managers and colleagues must give high priority to both informal and formal aspects of this policy to ensure that they are completed as quickly as possible.

All colleagues are responsible for:

- Ensuring that you understand the grievance procedure;
- Clearly stating your intended resolution and outcome; and
- Ensuring that, wherever possible, attempts to resolve the complaint informally are made before raising a formal grievance.

All managers are responsible for:

- Understanding the grievance procedure;
- Ensuring that, wherever possible, you address any complaints informally in the first instance;
- Ensuring the colleague is aware of and understands the process for hearing the grievance;
- Providing any colleagues involved in any grievance with clearly communicated guidelines on expected timescales and keeping them updated on any potential delays to resolving the grievance;
- Having regular wellbeing conversations with colleagues involved in any stage of the process to ensure that the appropriate support is in place; and
- Seeking advice and guidance from askHR at any stage of the process, where you feel you need support.

Nominated Officers are responsible for:

- Understanding fully the grievance procedure and ensuring all stages are adhered to and correctly applied;
- Completing the Declaration of Independence form to ensure you have no conflicts of interest in the case;
- Ensuring the grievance is handled with sensitivity and confidentiality as well as managing such case fairly and objectively;
- Ensuring that set timescales are met, and colleagues are provided with regular updates on their grievance;
- Providing an outcome to the grievance based on the evidence presented; and
- Satisfying yourself that any outcome or recommendations have been implemented.

3. Informal Resolution

Any concern, complaint or grievance should be addressed as soon as it's raised, and this does not necessarily have to be in writing - it can be raised verbally through regular meetings with a manager or by contacting the person directly. Managers should be alert to any issues being raised by colleagues and aim to resolve things fully and quickly without having to go through a formal procedure. Colleagues should be supported in addressing your concerns and all discussions to resolve the concerns should be outcome focussed.

In many circumstances, a confidential conversation with the line manager or the individual concerned is all that's necessary to resolve an issue. On other occasions, it may be appropriate to hold a series of conversations, which could form part of regular one-to-one meetings, to ensure the necessary support and

review is in place. All attempts should be made to resolve the matter within a reasonable timeframe. In cases where you are unable to discuss the matter with your immediate line manager or the complaint is about your immediate manager, you should speak to an alternative appropriate manager.

Mediation as a means of informal resolution may also be a beneficial tool, at this stage or later in the process, to resolve misunderstandings and disagreements at work which affect working relationships. Mediation is a facilitated discussion or restorative conversation through a line manager or through a trained mediator. Further information on Mediation can be found in the supporting User Guide.

Where things can't be resolved through taking simple steps (such as a conversation with the relevant colleagues) or where additional information is required, the line manager should ensure they meet with the colleague within five working days of the concern being raised to provide an outcome. In some cases where the concerns are more complex, and additional time is required the line manager must provide the colleague with regular updates on the process and expected timeframe. In some cases, the nature of the complaint may warrant a full investigation and, in such cases the formal procedure may be started from the outset.

Bullying and Harassment

In some cases of bullying and harassment, individuals may not be aware of the impact their behaviour is having. Often cases can be resolved informally by having a conversation.

If the matter is of a serious nature, it may be the complaint is managed formally following this policy or another Council Policy.

Once the complaint has been considered, your manager will inform you of the outcome verbally and in writing, outlining any action that will be taken. Where recommendations or action are made, line managers should, where possible, provide timescales for implementation.

If the grievance is not suitable for informal resolution or informal resolution has been attempted and has not been successful, the matter can be dealt with under the formal procedure.

4. Formal Procedure - Stage 1

If your grievance cannot be resolved informally, you should raise it as a formal complaint. Where no recommendations have been made as part of the informal stage, you must escalate your concerns within 10 working days of the informal outcome. Where actions or recommendations have been made, you must allow reasonable time for these to be implemented before raising your concerns to the next stage. This should be in line with the timescales outlined in the informal outcome.

There may be some cases whereby the nature of the complaint is so serious the grievance bypasses the informal stage and is heard formally from the outset.

In all cases, the complaint should be made in writing to the Headteacher or senior manager, or if your complaint is about the Headteacher or senior manager, you should speak to an alternative appropriate manager who will appoint a Nominated Officer to deal with the grievance. Where you are unsure who would be the next appropriate manager, you can speak to your union (if you are a member) or askHR who can advise. In circumstances where it would not be appropriate for the Headteacher or senior manager to hear the grievance at Stage 1, the grievance should be submitted directly to the Service Director.

Please refer to the supporting user guide which provides more details on roles and responsibilities.

Your grievance should clearly outline:

- The details of your grievance or complaint (including any relevant facts, dates and names of individuals involved);
- any accompanying information or evidence;
- any details of any informal action taken to resolve the matter; and

- your preferred resolution(s)

In some situations, you may be asked to provide further information.

Appointment of a Nominated Officer

Upon receiving the formal grievance and any supporting documents, a Nominated Officer will be appointed.

The Nominated Officer (and, if applicable, the Investigating Officer) will be required to complete a Declaration of Independence form prior to the commencement of a formal process. This will ensure that potential conflicts of interest arising from personal/work relationships with those subject to the investigation, or witnesses as well as any previous involvement in decision making in the impacted area are identified and that appropriate steps are taken to avoid that conflict. In most cases where a conflict is identified, the Nominated Officer (or Investigating Officer) will decline to act, and another officer will be appointed. Further details can be found in the User Guide.

In all cases, the Nominated Officer hearing the grievance will make contact you within five working days of receiving the grievance to confirm receipt of your grievance and, where possible, set a date for an initial grievance meeting.

Investigation

In some cases, further investigation may be required, and the Nominated Officer will appoint an Investigating Officer. The amount of any investigation required will depend on the nature of the grievance and will vary from case to case. The investigation may involve gathering additional evidence as well as taking statements from you and any witnesses. Where an investigation is required, the Nominated Officer will advise you of this, and keep you updated on timelines and any delays. All meetings and investigations will be completed within a reasonable timeframe without impacting the quality of the investigation.

You must co-operate fully and promptly in any investigation. This may include informing us of the names of any relevant witnesses, disclosing any relevant documents to us, and attending interviews, as part of our investigation. An Investigating Officer will not be required in each and every case and this will be a matter for the Nominated Officer to determine.

Right to be accompanied

You have the right to be accompanied to any grievance meeting by a colleague or a trade union representative. Please note that your companion cannot be anyone who is involved, conflicted or who has been interviewed as part of the grievance.

At the meeting, your companion should not answer questions on your behalf. You may talk privately with them at any time during the meeting.

Acting as a companion is voluntary and your colleagues are under no obligation to do so. If they agree to do so they will be allowed reasonable time off from duties without loss of pay to act as a companion.

If your chosen companion is unavailable at the time a meeting is scheduled and will not be available for more than five working days afterwards, we may ask you to choose someone else. In cases where your chosen companion fails to attend the meeting without explanation, then it may proceed in their absence.

The Grievance Meeting

You and your companion (if any) should make every effort to attend grievance meetings. If you or your companion cannot attend at the time specified, you should inform the Nominated Officer immediately and they will try, within reason, to agree an alternative time.

The purpose of a grievance meeting is to enable you to explain your grievance and how you think it should be resolved, and to assist the Nominated Officer to reach a decision based on the available evidence and the representations you have made.

The Nominated Officer hearing the grievance will assess whether witness evidence is required at the meeting and, if so, what witnesses should be called to attend the meeting.

After an initial grievance meeting the Nominated Officer may carry out further investigations (or instruct the Investigating Officer to do so) and hold further grievance meetings as they consider appropriate. Such meetings will be arranged without unreasonable delay.

5. Grievance outcomes

Once the grievance has been fully investigated, and all necessary meetings held, you will be advised of the decision by the Nominated Officer in writing within five working days. There are 3 possible outcomes to a grievance:

1. Grievance upheld;
2. Grievance partially upheld; or
3. Grievance not upheld.

Grievance upheld

If your grievance has been upheld, the Nominated Officer who heard the grievance will outline any action that will be taken to resolve the complaint you raised and will explain who is responsible for taking these actions forward. Please note that due to confidentiality and data protection obligations you may not be advised of specific actions that are recommended or taken (for example if they relate to a formal process being initiated against colleague(s)).

Grievance partially upheld

In the case that your grievance is partially upheld, the Nominated Officer may decide that some of your concerns require action. This will be explained to you along with the action taken to resolve them and the reasons as to why some elements have been upheld. The Nominated Officer will also explain why part(s) of your grievance have not been upheld.

Grievance not upheld

It may be decided that there is not sufficient evidence to uphold the issues which you have raised, or that the concerns raised were not justified. The Nominated Officer will outline the reasons for this decision.

If the Nominated Officer finds your grievance to be vexatious or malicious, they will decide if further action under the Disciplinary Policy should be taken against you.

6. Appeals

Stage 2

We appreciate that not everyone will agree with the outcome of their grievance under Stage 1, and you may decide that you want to appeal the outcome.

Any colleague who wishes to appeal must do so by submitting the Grievance Appeal Form (Stage 2) within 10 working days of receiving the outcome of the grievance.

All appeals should be sent to the Service Director – Education and must be submitted within 10 working days from the day you received the outcome of your grievance.

To submit an appeal, you must use a Grievance Appeal Form (Stage 2). You should include details of the following points in this form:

- details of why you are making an appeal;
- whether you believe a fair process was carried out;
- whether you believe that any relevant evidence was not considered;
- whether you believe that the evidence presented was misrepresented;
- whether you believe the outcome reached was incorrect based on this evidence that was gathered; and
- the outcome that you are seeking.

It is important to note you cannot raise new concerns or issues at this stage, any new concerns or issues will be disregarded during the appeal.

All appeals will be assessed by the Service Director - Education who will determine if the Grievance Appeal Form (Stage 2) has been completed correctly. You may be asked to provide additional information to your Grievance Appeal Form.

The appeal hearing

The appeal hearing will be conducted by a Director or their nominee (known as the Appeal Hearing Manager). Where practicable, the officer hearing the appeal will not have been previously involved in the case and will be senior to the individual who conducted the previous meeting.

The purpose of the appeal hearing is to review the decision that was made at Stage 1 to ensure that it was fair and reasonable in the circumstances. The Appeal Hearing Manager will not re-hear the original grievance, review any new evidence or consider any new issues. Any new issues should be addressed as a new grievance under this policy.

Once it has been confirmed that your Grievance Appeal Form has been completed correctly, your appeal will be heard by the Appeal Hearing Manager within ten working days of receipt of your Grievance Appeal Form, or as soon as is reasonably possible thereafter.

You will have the right to be accompanied at all appeal hearings by an accredited trade union representative, a work colleague or an official employed by a trade union. Please note that your companion cannot be anyone who is involved or who has been interviewed as part of the grievance.

Following the appeal hearing, the Appeal Hearing Manager will write to you to confirm their decision and the reasons for it. Where possible, this will be within five working days from the date of the hearing. Should more time to consider the appeal be required, you will be advised of this along with the anticipated timeframe for a decision.

Stage 3

If you remain dissatisfied with the response from the Appeal Hearing Manager, there is a further right of appeal to the Personnel Appeals Committee. To submit an appeal, you must use a Grievance Appeal Form (Stage 3). This should be sent along with any documents relevant to the appeal within 14 calendar days of receiving the outcome of your Stage 2 grievance appeal.

Within your appeal, we are looking for you to demonstrate one of the following:

- The grievance did not follow a fair process and/or the process was not followed correctly;
- Information provided and/or gathered during the process was not considered;
- The conclusion reached was incorrect given the evidence presented i.e., not consistent or supported by the information provided;
- Where applicable, the behaviour complained about has not stopped.

All appeals will be sent to the Service Director – Legal & Assurance and the Service Director - HR.

All appeals will be assessed by HR who will determine if the Grievance Appeal Form (Stage 3) has been completed correctly. You may be asked to provide additional information to your Grievance Appeal Form.

Arrangements will be made for the appeal to be heard within a month or as soon as reasonably possible if that timescale cannot be met. Committee Services will issue the agenda and papers for the meeting of the Personnel Appeals Committee no less than five calendar days in advance of the appeal hearing.

An appeal may not be heard by the Personnel Appeals Committee if:

- the outcome you have requested is unable to be granted e.g., in relation to an operational matter which is devolved to certain officers under the scheme of delegation or a legislative issue. Where the outcome cannot be granted, HR can provide clarity on the scope of the Committee for your consideration;
- all or some outcomes of your grievance are upheld, and the Nominated Officer has given a commitment to deal with your complaints within a specific timescale but has not done so. In this instance you should speak with the Nominated Officer to seek an explanation;
- all or some outcomes of your grievance are upheld, and the Nominated Officer has arranged for a further investigation to take place. A reasonable time period should be allowed for this to happen.

Where no reasonable attempts have been made to deal with your complaints or undertake further investigations, your appeal may be considered by the Committee.

Stage 4

In the event that you continue to be dissatisfied, and only where the original grievance related to the interpretation or implementation of a national agreement promulgated by the Scottish Negotiating Committee for Teachers (SNCT), recourse may be had to their Joint Secretaries through their appeals process.

Further information on the appeals processes and where to submit appeals to can be found in the supporting User Guide.