



CCMS Circular 2008 / 14

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GRIEVANCE PROCEDURE FOR TEACHERS, INCLUDING PRINCIPALS AND VICE- PRINCIPALS IN GRANT-AIDED SCHOOLS (TNC 2008/3)

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Target Audience:

- Chairs of Boards of Governors of Catholic Maintained Schools
- Principals of Catholic Maintained Schools

Summary of Contents:

Outlines the procedures available which a teacher may use to raise a grievance with his/her employer.

Enquiries:

Enquiries regarding this circular should be referred to:

Diocesan Education Offices

Armagh 028 8775 2116

Clogher 028 6632 2709

Derry 028 7126 1931

Down and Connor 028 9032 7875

Dromore 028 3026 2423

Related Documents:

Superseded Documents:

TNC 1998/4

Expiry Date:

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GRIEVANCE PROCEDURE FOR TEACHERS, INCLUDING PRINCIPALS AND VICE-PRINCIPALS IN GRANT-AIDED SCHOOLS (TNC 2008/3)

I enclose a copy of the new Grievance Procedure for Teachers, including Principals and Vice-Principals in Grant Aided Schools, which has been agreed by the Teachers Negotiating Committee. This replaces the previous Grievance Procedure with immediate effect.

Of particular importance is the new provision of two distinct types of grievance procedure. There is now provision for a statutory grievance procedure which can be used in cases which relate to a statutory employment right.

In addition the new procedure highlights the availability of mediation as an informal method of resolving disputes within the workplace. The aim is to encourage members of staff to seek to resolve disputes at an early stage through informal means. Whilst mediation is a voluntary process, and may only be used where all parties agree to engage in the process, it is important that teachers are made aware of the availability of this process as an alternative to a formal procedure. Further information on mediation is provided in the annex to the grievance procedure.

Other key changes to the procedure include:

- An emphasis on basic principles of reasonableness.
- Provision for the Chair of Governors to substitute for the Principal, where the Principal is the subject of, or is involved in, a grievance raised by a teacher.
- Removal of the requirement to engage in conciliation with the Labour Relation Agency prior to invoking an external appeal.
- The provision of an internal appeal in cases where a Principal raises a grievance.

It is essential that the Board of Governors formally adopts the new procedure as soon as possible and provides a copy to all teaching staff. In cases where a grievance is being managed under the current procedure, this should continue.

Should you require any advice on this procedure, you are strongly advised to seek the advice from your local Diocesan Education Office.

Yours sincerely

LA'VERNE MONTGOMERY
HEAD OF HUMAN RESOURCES AND CORPORATE SERVICES

GRIEVANCE PROCEDURE FOR TEACHERS, INCLUDING PRINCIPALS AND VICE-PRINCIPALS IN GRANT-AIDED SCHOOLS

1. INTRODUCTION

- 1.1** This document provides two, separate and distinct, grievance procedures which a teacher may use to raise a grievance with his/her employer.
- 1.2** The Statutory Grievance Procedure, outlined in Paragraph 8, should be used for grievances which relate to statutory employment rights, for example, equal pay, discrimination on the grounds of age, disability, gender (including transgender), marital status, political opinion, race, religion, sexual orientation, trade union rights, unlawful deduction from wages, redundancy pay, working time rights, part time workers rights, fixed term employment and flexible working etc.
- 1.3** For all other grievances, excluding salary issues, the Grievance Procedure outlined in Paragraphs 1-7 shall apply.
- 1.4** The School Salary Policy provides an appeals procedure for concerns arising out of the application of the School Salary Policy and the award of Teaching Allowances, permanent or temporary.
- 1.5** The nature of the complaint/grievance will determine which Procedure is to be used. The teacher must decide on and state clearly which procedure he/she is to rely, when raising a grievance with the Principal. Having determined the procedure to be used, it must apply to completion of the process.

2. PURPOSE AND PRINCIPLES

- 2.1** This purpose of this procedure is to set out clearly the steps which should be followed where a teacher wishes to raise a grievance, other than a Statutory Grievance or Salary Policy issue but should not detract from both parties endeavouring to resolve perceived problems initially through informal means.
- 2.2** The following points apply to this procedure:
- Each step and action under the procedure shall be taken without unreasonable delay;
 - Teachers and Line Managers should attempt to resolve grievances at the lowest possible level;
 - Timing and location of meetings shall be reasonable and, where possible, agreed between the parties;
 - Meetings shall be conducted in a manner which enables the parties to explain their case;
 - Teacher governors shall not sit on any sub committee established to hear any grievance or appeal.
- 2.3** A teacher/principal has the right to be accompanied and/or represented at each stage of the procedure, if he/she desires, by a recognised trade union representative or teaching colleague. Legal representation is not permitted.
- 2.4** A Principal has the right to be accompanied by a senior member of staff or a representative of the employing authority when dealing with a grievance raised by a teacher.
- 2.5** Time limits shall apply to each stage of the procedure, unless altered by agreement.

- 2.6 The Grievance Procedure shall not be used to examine concerns teachers may have regarding the application of the School Salary Policy and the award of Teaching Allowances, permanent or temporary.
- 2.7 This procedure provides mediation, which is a voluntary process, is confidential to the parties and can assist in the resolution of individual disputes at an early stage. It can be provided by the employing authority, the Labour Relations Agency or, exceptionally, an external provider.

Reference to the Labour Relations Agency in this procedure shall not be construed in any way as creating a contractual relationship between the Labour Relations Agency and any person/organisation.

- 2.8 The operation of the procedure shall comply with the provisions of the school's Equal Opportunity Policy Statement.

3. DEFINITIONS

Teacher

"Teacher" means a teacher employed in a grant-aided school.

Teaching Colleague

Means a teacher from the same school or, in the case of a Principal, a colleague from the same school, or peer from another school.

Trade Union Representative

Means an accredited representative, lay or full time official of the organisation of which the teacher is a member.

Employing Authority

Means for controlled schools, the Board responsible for the management of the school and for Catholic maintained schools, the Council for Catholic Maintained Schools. In the case of voluntary grammar schools and grant maintained schools, the Board of Governors is also the employing authority.

4. INFORMAL PROCEDURE

- 4.1 Teachers should aim to resolve grievances informally with the person with whom they feel aggrieved. Dialogue between parties may enable the problem or difficulties to be resolved speedily, and may prevent the matters being the subject of formal adversarial procedures. Attempts to resolve the grievance informally shall not contaminate the formal process.

5. GRIEVANCE PROCEDURE: TEACHER

5.1 Initial Step

A teacher who considers a grievance exists and who does not wish to deal with the matter informally, shall initiate the procedure by writing to the Principal, clearly indicating that he/she is initiating this Grievance Procedure, see paragraph 1, outlining the nature of the grievance he/she considers exists, and the redress sought. Where the Principal is the subject of, or involved in, the grievance, the teacher shall write to the Chair of Governors or his/her nominee who shall substitute for and undertake the role of the Principal in this procedure.

5.2 Mediation

Upon receipt of this Statement of Grievance, the Principal shall write to the teacher and advise him/her of the opportunity to resolve the grievance, using an independent mediation process.

Mediation is an agreed process, entered into voluntarily, in which an independent, experienced intermediary assists participants who are in dispute. The process is to enable those involved to reach resolution and is designed to assist them to work towards a better understanding of their specific issues. Further details of the mediation process are attached as Annex I.

Upon written confirmation that the parties are agreeable to engage in mediation, the Principal shall initiate the process by contacting the Employing Authority, which shall be responsible for appointing the mediator.

At the conclusion of the process, the mediator shall write to the Chair of Governors, indicating whether the process has been successful in resolving the matters raised in the grievance. A copy of this letter shall be sent to the parties involved.

5.3 Formal Grievance

Where the matter has not been resolved informally, the parties are unwilling to engage in mediation or the mediation has been unable to resolve the matter, the teacher shall write to the Principal and indicate that he/she wishes to progress to a Formal Grievance.

Within 5 working days of receipt of this letter the Principal shall arrange, in writing, to meet the teacher to hear the grievance. The teacher shall be reminded of their right to be accompanied and/or represented at this meeting.

Following the meeting the Principal shall notify the teacher, in writing, of the outcome of the hearing, normally within 7 working days from the date on which the meeting took place. The notification shall also advise the teacher of the right of appeal. Mediation is also available at this stage.

5.4 Internal Appeal

If the teacher is not satisfied with the outcome, the teacher or his/her representative shall, within 10 working days of the grievance meeting, write to the Chair of Governors indicating that he/she wishes to initiate the Internal Appeal Stage of the Procedure, and include with this a copy of the initial statement of grievance.

On receipt of the appeal request, the Chair shall arrange for a sub-committee of the Board of Governors to hear the appeal. The subcommittee shall write to the teacher to invite him/her to attend the appeal meeting, which shall normally take place within 10 working days of receipt of the appeal by the Chair. The teacher shall be reminded of his/her right to be accompanied and/or represented at the meeting. The sub committee may request the attendance of a representative of the employing authority whose role shall be advisory in nature and he/she shall not be a party to the decision making process.

The sub committee, having considered the appeal, shall notify the teacher in writing of its decision, normally within 10 working days of the meeting.

If the teacher remains dissatisfied, he/she has the right to an independent appeal as set out in Paragraph 7 of this procedure. Mediation is also available at this stage.

6. GRIEVANCE PROCEDURE: PRINCIPAL

6.1 Initial Step

A Principal who considers a grievance exists shall initiate the procedure by writing to the Chair of Governors clearly indicating that he/she is initiating this Grievance Procedure, see Paragraph 1, outlining the nature of the grievance he/she considers exists, and the redress sought.

6.2 Mediation

On receipt of the written statement of grievance the Chair shall write to the Principal and advise him/her of the opportunity to resolve the grievance using an independent mediation process. The procedure is as outlined at 5.1 above.

6.3 Formal Grievance

Where the matter has not been resolved informally, the parties are unwilling to engage in mediation or the mediation has been unable to resolve the matters, the Principal shall write to the Chair, indicating that he/she wishes to progress to a Formal Grievance.

The Chair shall arrange for a sub committee of Governors to hear the grievance. The sub committee shall arrange, in writing, to meet the Principal, normally within 10 working days of receipt of the grievance by the Chair. The Principal shall be reminded of his/her right to be accompanied and/or represented. The sub committee may request the attendance of a representative of the employing authority, whose role shall be advisory in nature and he/she shall not be a party to the decision making process.

Following the meeting the sub committee shall notify the Principal in writing of the outcome of the hearing of the grievance, normally within 10 working days from the date on which the meeting took place. The notification shall also advise the Principal of the right of appeal. Mediation is also available at this stage.

6.4 Internal Appeal

If the Principal is not satisfied with the outcome, the Principal or his/her trade union representative shall, within 10 working days of the date of the grievance meeting with the sub committee write to the Chair of Governors indicating that he/she wishes to initiate the Internal Appeal stage of the Procedure, and include with this a copy of the initial statement of grievance.

On receipt of the appeal, the Chair shall arrange for a sub committee of the Board of Governors, who shall not have had any previous involvement with the case, to meet the Principal to hear the appeal. The sub committee may request the attendance of a representative of the employing authority, whose role shall be advisory in nature and he/she shall not be a party to the decision making process.

The sub committee shall write to the Principal to invite him/her to attend the appeal meeting, which shall normally take place within 10 working days of receipt by the Chair of the appeal. The Principal shall be reminded of his/her right to be accompanied and/or represented at the meeting.

The sub committee, having considered the grievance appeal, shall notify the Principal in writing of its decision, normally within 10 working days of the meeting.

If the Principal remains dissatisfied, he/she has the right to an independent appeal as set out in Paragraph 7 of this procedure. Mediation is also available at this stage.

7. INDEPENDENT APPEALS COMMITTEE

7.1 Where a teacher/principal has followed the procedure, and is dissatisfied with the outcome he/she shall have the right of external appeal.

7.2 The teacher/principal, and his/her representative, shall, within 10 working days of receipt of the outcome of the internal appeal, lodge a formal notice of appeal to the Secretary of Arbitration, Labour Relations Agency, and simultaneously copy it to the Chair of Governors.

Within 10 working days of the notice of appeal having been lodged with the Secretary of Arbitration, both parties shall be contacted to request submissions and to make arrangements for a hearing before an Appeal Committee.

- 7.3** The Appeal Committee shall consist of an independent Chair appointed by the Labour Relations Agency and 2 panel members, 1 nominated by the Management Side, the other nominated by the Teachers' Side of the Teachers' Salaries & Conditions of Service Committee. Neither panel member should be an employee, representative or official of the Employing Authority or the Teachers' Union involved in the case.
- 7.4** The appeal shall normally be heard within 15 working days of receipt of the formal notice of appeal by the Secretary of Arbitration who shall be responsible for the setting up and administration of the Appeal Committee. The teacher/principal may be accompanied and/or represented by the full-time union official or teacher colleague.

Written submission and supporting documentation shall be lodged with the Arbitration Secretary at least 5 working days before the date of the hearing.

- 7.5** Neither party to the independent appeal shall have legal or industrial relations consultants representing them at an appeal hearing.
- 7.6** The work of the Appeal Committee shall not be invalidated by the absence of one or other of the parties. The Appeal Committee has the right to make constructive proposals in the form of recommendations which the parties would be expected to undertake to encourage the improvement of working relations within the school.
- 7.7** The decision of the Appeal Committee shall be communicated in writing to both parties within 10 working days of the hearing. It shall be final and binding on both parties.

8. STATUTORY GRIEVANCE PROCEDURE

- 8.1** The Statutory Procedure shall apply when the teacher has a grievance which relates to a statutory employment right, for example, equal pay, discrimination on the grounds of age, disability, gender (including transgender), marital status, political opinion, race, religion, sexual orientation, trade union rights, unlawful deductions from wages, redundancy pay, working time rights, part time workers rights, fixed term employment and flexible working etc. A grievance here is defined as a complaint by a teacher about an action, which his/her employer has taken or is contemplating taking in relation to him/her.

Teachers also may use the Statutory Grievance Procedure to deal with:

- Constructive dismissals;
 - Where the teacher believes that the employer is discriminating against him/her or victimising him/her for reasons other than his/her conduct or ability to do his/her job properly. Where this happens during a disciplinary or dismissal procedure, the teacher can write to the employer notifying them of the grievance.
- 8.2** A teacher/principal has the right to be accompanied and/or represented at each stage of the procedure, if he/she desires, by a recognised trade union representative or teaching colleague. Legal representation is not permitted. Teaching Colleague means a teacher from the same school or, in the case of a Principal, a colleague from the same school, or peer from another school. Trade Union Representative means an accredited representative, lay or full time official of the organisation of which the teacher is a member.

8.3 The 3 Step Grievance Procedure will apply in cases where the teacher is still employed by the school/employing authority. Where the teacher has left the school he/she can use a two step procedure – see paragraph 8.5.

8.4 The Statutory Grievance Procedure has three steps:

8.4.1 Step 1: The Written Statement

The teacher or his/her representative must set out his/her grievance in writing and send a copy to the Chair of the Board of Governors. The teacher shall indicate that he/she wishes to pursue a Statutory Grievance.

The letter shall contain details of the grievance and clearly indicate any statutory grounds or legislation which the teacher believes to have been infringed and which forms the basis of his/her grievance.

8.4.2 Step 2: The Meeting

On receipt of the written statement the Chair of the Board of Governors will acknowledge the grievance and invite the teacher to a meeting with a Grievance Panel to discuss it. This meeting should be held as soon as possible and no more than 28 days from the date on the originating letter of grievance.

The Chair of the Grievance Panel will explain to the teacher how the meeting will be held, who will speak and when. The teacher or his/her representative will be given an opportunity to state the nature of the grievance and to explain what the teacher has done to try to resolve the problem informally. The sub-committee may request the attendance of an employing authority representative.

At the end of the grievance hearing the Chair will advise the teacher of the timetable for the decision of the grievance panel. This should not be normally longer than 5 working days. If it is not possible to respond within five working days the teacher should be given an explanation for the delay and told when a decision can be expected. Such a decision will be in writing and will set out the grounds that the panel has relied upon in reaching its decision.

The Chair will also inform the teacher of the right of appeal and the procedure for initiating it.

8.4.3 Step 3: The Appeal

If the teacher considers that the grievance has not been satisfactorily dealt with, the teacher or his/her representative will write to the Chair of Governors indicating his/her wish to appeal. The Chair of Governors will arrange a meeting with a differently constituted appeal panel to hear the appeal no later than 28 days from the date of the letter of appeal.

The Chair of the Appeal Committee will explain to the teacher how the meeting will be held, who will speak and when. The teacher or his/her representative will be given an opportunity to state the nature of the appeal and to explain what the teacher has done to try to resolve the problem informally. The sub committee may request the attendance of a representative of the employing authority.

After the appeal meeting, the Chair will set out in writing the decision of the Appeal Committee and the reasons for reaching the decision. This written decision shall be conveyed to the teacher within 5 working days from the date of the appeal hearing. This completes the Statutory Grievance Procedure.

8.5 Exceptions

- 8.5.1** A teacher who has left his/her employment may subsequently raise a grievance using the following procedure.
- 8.5.2** If a teacher leaves his/her employment, but still has an outstanding grievance, he/she may wish to pursue it using a shorter, two-step procedure, known as the modified procedure. In such instances the teacher or his/her representative should write to the Chair of the Governors and seek agreement to use the modified procedure. This procedure is applicable, when the governors could not reasonably have known about the grievance before the employment had ended, or the grievance procedure was either not started or was started but not completed before the teacher left the employment.
- 8.5.3** The two steps of the procedure are:
1. The teacher or his/her representative should send a written statement of the grievance and the basis for it to the former employer, (Board of Governors).
 2. The former employer should reply to the teacher, answering the points that have been raised.

GRIEVANCE PROCEDURE: MEDIATION

1. INTRODUCTION

- 1.1** Mediation is an agreed process, entered into voluntarily, in which an independent, experienced intermediary assists participants who are in dispute. The aim of mediation is to move away from adversarial procedures and resolve issues as early as possible.
- 1.2** Before invoking the formal procedure, it may be possible to deal with the grievance through the use of mediation. Mediation is also available following the formal hearing of a grievance and following internal appeal.
- 1.3** The aim of the process shall be to seek an early resolution of the issues by:
- Identifying common aims and objectives;
 - Re-establishing lines of communication; and
 - Developing proposals for settlement.
- 1.4** Teachers involved in the mediation process are entitled to be accompanied and/or represented by a recognised Trade Union representative, or a teaching colleague. Legal representation is not permitted.

2. ROLES AND RESPONSIBILITIES OF PARTIES INVOLVED IN MEDIATION

2.1 Teachers

Teachers who are voluntarily participants in the mediation process agree:

- To engage positively and meaningfully in the process
- To respect the dignity and feelings of the other party
- To use the process in good faith with a view to resolution
- To act professionally at all times
- To be honest and truthful in the meetings with the mediator
- To use the mediation process for its proper purpose.

2.2 Board of Governors

- The Board of Governors agree and recommend that the parties enter into this process in an attempt to resolve the issues identified.
- The Board of Governors agree to allocate a sufficient period of time for the completion of the mediation process and meet the direct costs arising from the process.
- The Chair of the Board of Governors will receive a statement of outcome between the parties as facilitated by the mediator. This is solely for the purpose of identifying any resource implications for the school and planning their implementation. The Chair will also be advised of the review date for the parties.

2.3 Mediator

- The mediator will be responsible for the management of the arrangements for the entire mediation process and will forward a copy of this Annex to both parties.
- In the initial meeting with the parties, the mediator will explain fully his/her role and the mechanics of the mediation process.
- The mediator does not reach agreement for the parties nor does he/she make a determinative adjudication.

2.4 Employing Authority

- The Employing Authority will provide the independent mediator drawn from resources internal to the Employing Authorities, or the Labour Relations Agency, or, exceptionally, an external provider.

3. MEDIATION PROCESS

- 3.1** The mediator will write to both parties advising of the date/time/venue of the initial meetings. This will normally be within 10 working days of the formal notification to the Employing Authority.
- 3.2** Meetings with the mediator will be held in a neutral venue. Teachers involved in the process will be allowed reasonable time, at work, to prepare and participate in the process.
- 3.3** The mediator will be provided with a copy of any notes or records relevant to the issues under consideration. In addition parties may wish to make written submissions summarising the issues to the mediator.
- 3.4** The mediator will meet with each party separately to outline the process and ascertain the details of the issue/s to be resolved.
- 3.5** The mediator will endeavour to bring the parties to a mutual agreement as quickly as possible and will outline the process including agreement on written statements/outcomes etc.
- 3.6** At the conclusion of the process the mediator will:
- draft the terms of the statement and ask that the parties sign an agreement to the effect that they agree to abide by any agreed recommendation contained within it.
 - set a review date for the parties, taking into account the nature of the discussions and the details of any agreement reached.
 - write to the Chair of Governors, indicating whether the process has been successful in resolving the matters raised in the grievance. A copy of this letter will be sent to the parties involved.