

EXCELLENCE THROUGH
EDUCATION AND TRAINING

Grievance Procedure for Staff employed by Education and Training Boards (ETBs)

Procedures adopted by Audit and Risk Committee on 23 March
2023

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& CDETB Craft Unions (e.g. TEEU, INPDU, UCATT and BATU)

Grievance Procedure for Staff employed by Education and Training Boards (ETBs)

**Original Grievance Procedure nationally agreed on 31 March 2010.
Amended 1 July 2013 to align with the various provisions of the Education
and Training Boards Act 2013.**

Revised for application on 24 February 2023.

CLARIFICATION

This revised Grievance 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 by any ETB staff member 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 will conclude using the process with which it was commenced.

Issued by the ETBI/Unions' Consultative Forum

24 February 2023

INTRODUCTION

The original Grievance Procedure was nationally agreed on the 31st March 2010 and subsequently updated and agreed to reflect legislative requirements arising from the Education and Training Boards Act 2013, which version was introduced in the ETB sector on 1st July 2013.

A review was undertaken at national level by the ETBI/Unions' Consultative Forum and this revised Grievance Procedure, with an accompanying Memorandum of Understanding applies in the ETB sector with effect from **24 February 2023**.

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.

Laois and Offaly 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 *Laois and Offaly* Education and Training Board to:

- ensure management at all levels develop effective channels of communications, practices, and working relationships that will prevent or minimise the incidence of grievances,
- 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) will 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 will maintain the *status quo ante* which

refers to and describes the position that prevailed 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 members concerned may process and determine the issue through this Grievance Procedure which has been agreed between management and trade unions representing staff.

DEFINITION OF GRIEVANCE

A grievance may be defined as a complaint which an employee/s has concerning practices, proposals, decisions, acts, or omissions of management that affect his/her/their employment conditions and/or roles and/or responsibilities.

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 both 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 number of schools/colleges/centres/offices operated by an individual ETB, the procedure can be used but will 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, nor
- matters which will develop into a claim covered within the scope of the (teachers') conciliation and arbitration scheme and/or the industrial relations forum for ETBs,
- 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, which shall be dealt with under the agreed sectoral codes for dealing with such complaints,
- any matter which comes within the ambit of the relevant disciplinary procedures,
- anonymous grievances,
- matters which are the subject of legal proceedings,
- matters unrelated to employment,
- complaints by an employee/employees against another employee/other employees – which shall be dealt with by the employer, under the appropriate procedure.

PRINCIPLES

This agreed Grievance Procedure provides an agreed 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:

- the parties are required to participate in, and engage constructively in the provisions of the 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 prevailed 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 intervention aimed at resolving the grievance may be accommodated at any stage subject to the prior written agreement of the parties as to the purpose, terms of reference and duration of such intervention. the time limits applicable to the stage will be adjusted accordingly;
- an employee/s may withdraw a complaint at any stage of the procedure. written notification of the withdrawal of a grievance should be provided;
- the grievance procedure cannot be used concurrently with any other policy, procedure or civil claim in relation to the same matter;
- where the grievance procedure has been formally concluded, it cannot be re-engaged for the same issue. however, where a similar issue arises, between the same parties, subsequently, the details of the previous grievance may be adduced as evidence;

¹ For the purposes of this procedure, “*representative*” includes a colleague of the employee’s choice or a representative/s registered trade union 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 provided from others present.

- 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 the event that a grievance is referred to a third party, in accordance with the provisions of this procedure, both sides will co-operate fully with the proceedings;
- 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.

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 resolution through informal means.

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

In any engagement towards informal resolution there should be an equality of representation.

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 grievances at informal or formal stages. Mediation can be at the request of either party to the grievance but has to be with the mutual agreement of both parties. An external professional mediator may be drawn from a list approved by ETBI and the union head office/s of the member/s concerned.

Engaging with mediation does not prejudice any individual's right to re-engage in the Grievance Procedure at the same stage as before, where mediation has not concluded with an signed resolution. All matters related to the mediation process remain strictly confidential to the parties.

FORMAL PROCEDURE

The formal procedure is a staged procedure with each stage escalating through the management structures of the Education and Training Board and, if required, the Workplace Relations Commission.

In circumstances where a grievance relates to a more senior level of the Education and Training Board, it is recognised that the grievance will be submitted at a more advanced stage of the formal process and so fewer stages apply.

Where possible, the informal stage should provide an opportunity for the relevant line manager, *i.e.* the manager whose action/inaction is the subject of the grievance, to resolve the grievance.

In invoking the formal process, the following commencement point and trajectory are anticipated:

- If the grievance is in respect of the act/s or omission/s, decision/s or proposal/s of a Principal/FET Senior Manager²/OSD APO, Stage 1 (to be heard by that Principal/FET Senior Manager/OSD APO) applies. If a resolution is not achieved at Stage 1, Stage 2 does not apply and the matter is referred from Stage 1 to Stage 3. HR is copied on the grievance and all related correspondence.
- In the event of the grievance being in respect of the act/s or omission/s, decision/s or proposal/s of a Director, this procedure will commence at Stage 1 by the submission of the grievance in writing to the Director³. HR is copied on the grievance and all related correspondence. If a resolution is not achieved at Stage 1, Stage 2 does not apply and the matter is referred from Stage 1 to Stage 3. HR is copied on the grievance and all related correspondence.
- In the event of the grievance being in respect of the act/s or omission/s, decision/s or proposal/s of the Chief Executive, the procedure will commence at Stage 3 by the submission of the grievance in writing to the CE. HR is copied on the grievance and all related correspondence. In this instance, it would not be appropriate for the CE to nominate a delegated officer. The CE attends the meeting with the aggrieved party and issues a statement of outcome which concludes Stage 3.
- Appeal of a Stage 3 grievance determination shall be made in accordance with Stage 4.

Stage 1

- The staff member/trade union shall submit the grievance to the person in respect of whose act/s or omission/s, decision/s or proposal/s they have the grievance.

² Currently the FET Senior Manager Roles are considered Adult Education Officer and Training Centre Manager.

³ The 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.

- The Line Manager in receipt of the grievance shall arrange a meeting between the parties to take place no later than 10 working days from the date of receipt of the grievance.
- At this meeting both parties may be accompanied – the complainant by a work colleague or union representative and the respondent by a colleague in senior management.
- At this meeting both parties shall seek a mutually acceptable resolution of the grievance.

Following the meeting:

- If a resolution is reached it will be recorded in written form for signing off by both parties.
- If resolution is not reached, a statement of the outcome of the meeting shall be prepared by the Line Manager and provided to the complainant and her/his representatives. The complainant and/or her/his representatives may refer the original grievance to Stage 2 (or Stage 3 where appropriate) within 10 working days of receipt of the statement.

If the next most senior Line Manager is a Director or Chief Executive, Stage 2 does not apply but rather the referral will be from Stage 1 to Stage 3.

Stage 2

- Where Stage 2 is applicable: if the matter is not resolved at Stage 1, the original grievance and statement of outcome from Stage 1 may be referred by the individual/trade union to the next most senior Line Manager below Director, where such a level is in place.
- That Line Manager shall arrange a meeting between the parties to take place no later than 10 working days from the date of receipt of the referral to Stage 2.
- At this meeting both parties may be accompanied – the complainant by a work colleague or union representative and the Senior Line Manager by a colleague in senior management.
- At this meeting both parties shall seek a mutually acceptable resolution of the grievance.

Following the meeting:

- If a resolution is reached it will be recorded in written form for signing off by both parties.
- If resolution is not reached, a statement of the outcome of the meeting shall be prepared by the Senior Line Manager and provided to the complainant and her/his representatives. The complainant and/or her/his representatives may refer the original grievance to Stage 3 within 10 working days of receipt of the statement.

Stage 3

- If the matter is not resolved at the preceding Stage (1 or 2 as applicable), the individual/trade union may seek a meeting with the Chief Executive/Delegated Director, as respondent, on

behalf of the aggrieved employee. All relevant documentation from all previous stages will be provided to both the complainant and to the Chief Executive in advance of the meeting.

- HR will arrange a meeting of the parties within 10 working days of receipt, by the Chief Executive, of the referral.
- In advance of meeting with the aggrieved party, and in the event that other ETB Line Managers are cited as part of the grievance, the Chief Executive or delegated officer shall inform her/himself of the views of any such parties cited in the grievance, as appropriate, in considering a determination.
- At this meeting the aggrieved party and the Chief Executive or delegated officer, shall seek a mutually acceptable resolution of the grievance. If agreement on a resolution is achieved, a written statement of outcome setting out the resolution 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.
- If resolution is not so achieved the Chief Executive/Delegated Director shall adjudicate on the grievance and shall convey a determination in writing to the aggrieved employee and her/his representatives and to any other relevant party/parties concerned, within 10 working days of the hearing specified at Stage 3.
- Appeal of a Stage 3 grievance determination shall be made in accordance with Stage 4.

Stage 4

Staff may appeal the decision from a Formal Stage 3 Procedure to the appropriate stage of the WRC/Labour Court under the State's IR machinery. Where Staff do not have access to the State's IR machinery, the following procedure shall apply;

- It is open to an aggrieved party/parties and/or their trade union to appeal the decision from Formal Procedure Stage 3 to Formal Procedure Stage 4, which will be heard by an independent officer. The Independent Officer is nominated by the Conciliation, Advisory and Mediation Services division of the WRC. 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 determination by the CE at Stage 3. The written submission and supporting documentation should be simultaneously copied to the CE of the ETB, by the aggrieved party/parties or their trade union. It should be noted that a Stage 4 Appeal hearing cannot take place in the absence of a Stage 3 determination and it is not the role of the Independent Officer to conduct a *de novo* hearing in relation to the original grievance.
- 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,

i.e. those lodged initially. 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, with due regard for existing nationally agreed policies, procedures and agreements, 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 decision, 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.

ADOPTION AND REVIEW

ETB ADOPTION DATE

This Grievance Procedure has been formally adopted by *Laois and Offaly ETB* on *23 March 2023*.

REVIEW

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