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Grievance Procedure for Staff employed by Vocational Education Committees

Nationally agreed on 31 March 2010

INTRODUCTION

This Grievance Procedure for staff employed by Vocational Education Committees was developed and agreed following discussions between IVEA and the trade unions representing staff in the VEC sector. The procedure was prepared in accordance with the Labour Relations Commission's Code of Practice on Grievance Procedures and was formally agreed between the parties at national level on <date>. This Grievance Procedure supersedes all existing local procedures.

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. <Name of> Vocational Education Committee 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 <Name of> Vocational Education Committee 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 VEC 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:

- That 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.
- That the employee/s concerned is/are given the opportunity to avail of the right to be represented during the procedure¹.
- That 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.

¹ For the purposes of this procedure "representative" includes a colleague of the employee's choice and a registered trade union but not any other person/body unconnected with the enterprise

- 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.
- That every effort 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.
- That all relevant documentation concerning the grievance be made available at each of the meetings at each of the stages of the procedure.
- That an employee/s may withdraw a complaint at any stage of the procedure.
- 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.

DEFINITION OF 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 VEC – 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 2²

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

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 3 meeting to be held within a further **10 working days**.

Stage 3

If the matter has not been resolved at stage 2, the relevant trade union/branch representative should seek a meeting with the Chief Executive Officer³ on behalf of the aggrieved employee.

If the grievance is resolved by conciliation, the matter is concluded. If the grievance is not resolved by conciliation, the Chief Executive Officer 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.

Stage 4⁴

Stage 4 concerned to VEC teachers and certain other grades/staff that do not currently have access to the LRC/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 CEO at Stage 3. The written submission and supporting documentation should be simultaneously copied to the CEO of the VEC, 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.

² In the event of a complaint being made against a Principal or Director, the Grievance Procedure will commence at stage 2 by the submission of the grievance to the Head of Human Resources of the VEC or to an officer assigned by the Chief Executive Officer

³ The Chief Executive Officer may nominate a delegated officer to deal with the matter.

⁴ In the case of a grievance against a Chief Executive Officer of a VEC, the procedure should be commenced at Stage 4.

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 conciliation 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 CEO of the VEC (for implementation) and copied to the party/parties concerned to the grievance. This shall conclude the Grievance Procedure.

Stage 4 concerned to other VEC employees:

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

ADOPTION AND REVIEW

VEC ADOPTION DATE

This Grievance Procedure has been formally adopted by *<Named VEC>* on *<date>*.

REVIEW

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

/Users/roisinmcardle/Downloads/vecpolicies/GrievanceProcedureNationallyAgreed31March2010.doc