

IVEA

Representing Vocational
Education Committees



ASTI100
A century of service

IMPACT



unite
theUNION

**VEC
NPF**
VEC National Partnership Forum
(Gnó Gairmíochais - Fóram Gairmíochais Náisiúna)

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

MEMORANDUM OF UNDERSTANDING

TO SUPPORT THE OPERATION OF THE NATIONALLY AGREED
GRIEVANCE PROCEDURE FOR STAFF EMPLOYED BY VECS

To the Reader

A Consultative Forum of management (represented by IVEA), trade unions including TUI, ASTI, IMPACT, UNITE, SIPTU and the CDVEC Trade Union Group) and the VEC National Partnership Forum was tasked with the development of a Grievance Procedure to be adopted for use locally by Vocational Education Committees (VECs).

The outcome of an extensive consultative process has been the emergence, on 31 March 2010, of a nationally agreed *Grievance Procedure for Staff employed by VECs*. Critical to the consultative process and the emergence of the Procedure, has been the input, advice and support provided by the Labour Relations' Commission's (LRC) Conciliation Service.

This *Memorandum of Understanding* details the agreements reached by the Consultative Forum (through national engagement) with respect to matters concerning the operation of the Grievance Procedure and informed by the supporting training. This *Memorandum* was formally approved by the Consultative Forum and presents in a question and answer format.

This Memorandum should be read in conjunction with the *Grievance Procedure for Staff employed by VECs* and adopted by <named VEC> on <date>.

The accompanying Grievance Procedure is understood to replace all existing Grievance Procedures for staff working in the vocational education sector. Any future supplements/amendments to this *Memorandum of Understanding* adopted by the Forum will be advised in further supplements/revisions to the ***Memorandum of Understanding*** and, should be advised to any person/group requesting a copy of, or to invoke, the nationally agreed Grievance Procedure for staff in VECs.

What is meant by grievance?

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

[Agreed¹ 1 March 2010]

To whom can the procedure apply?

The procedure is available for use as a mechanism for processing grievance/s raised by an individual or collectively (i.e. complaints raised by or on behalf of a group of employees) within an individual VEC.

[Agreed 1 March 2010]

Can one bring a grievance through this process and have it simultaneously adjudicated on in another parallel forum.

No. The Forum advises that if a grievance is being pursued through this official Grievance Procedure, it cannot be simultaneously adjudicated on in another parallel forum.

Once the grievance has been expedited through the procedure, the aggrieved individual/group may still have a right to pursue the issue further if required, through the relevant Forum (e.g. Equality Tribunal etc.)

[Agreed 10 February 2010]

What does 'status quo ante' refer to in the Grievance Procedure?

'Status quo ante' 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. The status quo ante only applies in the case of a collective grievance involving the majority of staff affected by the proposed change but not with respect to a grievance brought forward by an individual.

[Agreed 1 March 2010]

What is meant by "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"?

The Forum recommends that unions and management would try to work together locally in schools/colleges/offices/centres to minimise the disruption to services (whether educational or administrative) in terms of meeting/s concerned to hearing of a particular grievance. As far as possible, grievance meetings particularly at stages 1 and 2 (Formal) would be arranged at times where cover would not be required for those in attendance. In relation to Formal stage 3 meetings which may very likely take place externally to the particular school/centre where the grievance emanates, the view was taken that it would be a matter for management to confirm the requirement for cover and, in such cases, cover will be provided.

[Agreed 19 April 2010]

What is meant by the reference to 'Mediation'?

The Code states that: "*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*".

Provision is available the parties to a grievance, by mutual agreement only, to opt for the services of an external professional mediator. Ideally mediation would take place in the informal stage but is not precluded for use in the Formal Procedure, subject to the agreement of the parties concerned to the grievance.

In the event that mediation is used, a professional mediator² will hold a series of structured sessions (3-4 max.) with the parties to the grievance with a view to achieving a resolution of the grievance.

¹ All references to 'Agreed' are understood to be 'Agreed by the parties to the Consultative Forum at national level'

² The HR Department in the VEC will nominate the professional mediator to be used

Mediators may be drawn from a list of approved mediators issued by the Mediators' Institute of Ireland, Mediation Forum Ireland or the Mediation Service operated by the Labour Relations' Commission.

Any information disclosed in the course of mediation must remain within the mediation process. It must not be disclosed and cannot be used with respect to any undertakings concerned to furthering a grievance through the agreed Grievance procedure and must remain confidential to the mediation process.

In the event that mediation is unsuccessful, the procedure can be re-invoked at the same stage without prejudice to the parties having engaged in a mediated process.

[Agreed 19 April 2010]

Websites for reference...

Mediators' Institute of Ireland http://www.themii.ie/find-a-mediator.jsp
Mediation Forum Ireland http://mediationforumireland.com/index.php
Workplace Mediation Service, Labour Relations' Commission http://www.lrc.ie/viewdoc.asp?m=d&fn=/documents/work/Workplace_Mediation_Service.htm

When does a grievance become formal?

The Formal Procedure activates only when the grievance is set out in writing.

Formal Procedure Stage 3

Who does one correspond with at stage 3 Formal Procedure?

Formal Procedure stage 3 states that: *"If the matter has not been resolved at stage 2, the relevant trade union/branch representative should seek a meeting with the Chief Executive Officer on behalf of the aggrieved employee"*.

This means that the union or aggrieved employee (if not a member of a union) would write to the Chief Executive Officer (CEO) of the VEC concerned, seeking a meeting.

The Chief Executive Officer may nominate a delegated officer from the VEC head office senior management team to deal with the matter.

[Agreed 1 March 2010]

The procedure reads: *"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"*. Importantly, following the stage 3 meeting, any adjudication on the grievance (whether heard or not by a delegated officer) should issue in the name of the CEO of the VEC.

[Agreed 13 January 2010]

Is there a potential conflict between matters that can be progressed on a statutory basis or claims appropriate to the Conciliation and Arbitration Scheme established for Teachers?

The Grievance Procedure operates without prejudice to the right of the employee to make a claim under statute.

Hence, the Grievance Procedure is not the appropriate procedure for circumstances in which a claim has been initiated under statutory employment legislation. Neither would it be used where matters would be referred as claims under the (Teachers') Conciliation and Arbitration Scheme or for claims appropriate to the collective bargaining process.

Who can be present at the Stage 4 hearing for teachers and certain other grades/staff that do not currently have access to the LRC/Labour Court under the State's IR machinery?

Stage 4 oral hearing provides for an aggrieved party to appeal the decision to a nominated appeals officer. There is a reasonable expectation that the CEO would be present and there is provision for his/her accompaniment. Examples of who might accompany the CEO could include:

- the delegated officer who heard the complaint at stage 3 (HR Officer, EO etc.);
- the Principal against whom the complaint was originally made.

[Agreed 13 January 2010]

What about VECs who normally have access either on an ad hoc or procedural basis to the LRC?

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.

[Agreed by email 18 January 2010]

Where does the process commence for grievance against a CEO?

In the case of a grievance against a Chief Executive Officer of a VEC, the procedure should be commenced at Stage 4 by submission of the grievance to the independent officer, nominated by the Labour Relations' Commission.

[Agreed 1 March 2010]