



PROCEDURES FOR THE RESOLUTION OF GRIEVANCES/DISPUTES

1 INTRODUCTION

- 1.1 This Grievance Procedure for all employees of the Institute of Technology sector was developed and agreed following discussions in a partnership manner between Management representatives from Institutes of Technology Ireland (representing all Institutes other than Dublin Institute of Technology), Dublin Institute of Technology and the Trade Unions SIPTU, IMPACT, UNITE and TUI representing employees in the Institute sector. The procedure was prepared taking account of the Labour Relations Commission's Code of Practice on Grievance Procedures and was formally agreed between the parties at national level on 21 November 2008. This Grievance Procedure supersedes all existing local procedures.
- 1.2 The Institute is committed to the development and maintenance of a positive working environment for all employees; to the encouragement of communication between unions and management on all issues of concern to the unions; and to ensuring there is a rapid management response to issues raised by a union. It is recognised by management that there must be consultation with the union(s) on matters relating to the conditions of service of employees.

2. PURPOSE

- 2.1 It is the policy of the Institute to encourage employees and Heads of Function/HR Department to resolve problems and handle complaints informally and quickly, without recourse to formal disputes or Grievance Procedures. The Institute endeavours to foster a working environment and working relationships in which the informal resolution of differences is the norm.
- 2.2 It is recognised, however, that from time to time issues may arise which need more formal arrangements to ensure a satisfactory and effective solution. In such cases, the following Grievance Procedures will be utilised.
- 2.3 The Grievance Procedure provides effective and fair processes by which employees can seek redress of grievance.

3. PRINCIPLES

- 3.1 The 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 during the process and in

accordance with the general principles of natural justice and fair procedures which include that:

- The employee concerned has the right to a fair and impartial determination of the issues concerned, taking into account any relevant or appropriate evidence, factors or circumstances.
- The employee concerned is 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.
- Every effort will 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 will be made available at each of the meetings at each of the stages of the procedure.
- An employee may withdraw a complaint at any stage of the procedure.
- Union representatives will be granted such reasonable time off with substitution provided (where required) to facilitate their attendance at meetings convened under the Grievance Procedure.

4. SCOPE

- 4.1 This procedure shall apply to all employees of the Institute who wish to raise a grievance, either individually or collectively.
- 4.2 Individual grievances should be dealt with through the Individual Grievance Procedures. The Collective Procedure will apply where the issue involves more than one employee or is on behalf of the union as a whole.
- 4.3 The Collective Grievance Procedure may be invoked on the staff side only by the appropriate recognised trade union. The Individual Grievance Procedure may be invoked by an individual employee or by the representative union on behalf of the employee. The procedure is for the purpose of discussing and resolving matters, which are not subject to the terms of the relevant Central Negotiation Forum. Matters appropriate to that Forum may only be dealt with at the Forum.

Matters outside of the scope of the Grievance Procedure

- 4.4 Individual cases of bullying and harassment should be dealt with through the Institute's bullying and harassment/dignity at work policy where such has been put in place in accordance with relevant legislative requirements, otherwise the Grievance Procedure can be utilised.
- 4.5 Employees aggrieved by an action or decision taken in relation to the recruitment and selection process must use the agreed review process set up under the recruitment and

¹ For the purposes of this procedure "representative" includes a colleague of the employee's choice or a recognised trade union which holds the negotiating rights for the grade of the employee but not any other person/body unconnected with the enterprise.

selection procedures of the Institute where such exists, otherwise the Grievance Procedure can be utilised.

Industrial Relations procedure

- 4.6 Any employee aggrieved by a legitimate work instruction, given by a Head of Function should carry out such instruction under protest and refer it for processing through the appropriate channels i.e. Individual Grievance Procedure. In this context, a legitimate work instruction is one which is within the context of current agreements and which is not at variance with accepted custom and practice.
- 4.7 Matters concerning the introduction of change and new developments are provided for in Towards 2016 (Sections 28 and 31). Notification of change and new developments will be given in advance and in sufficient time to allow discussions with the union(s) concerned to take place (due regard being given to situations of emergency). Any local grievance in respect of such matters forms part of those local discussions as envisaged under Section 28.13 of that agreement. Where the collective grievance procedure is invoked, and in respect of Stages 1 to 3, the “status quo” ante shall prevail in such matters, subject to those stages concluding in time to allow the changes to be introduced by the proposed implementation date. Subject to this, it is accepted that management have the right to implement changes in accordance with the provisions of the Agreement.
- 4.8 In respect of other referrals to the grievance procedures, the ‘status quo’ ante shall prevail, except in respect of issues covered by the Protocol on Essential Services (see Appendix 1). No industrial action or disciplinary action of any form will be taken by either side during the course of the procedure in respect of any issue which is the subject of the procedure.

5. INFORMAL RESOLUTION OF GRIEVANCES

- 5.1 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 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.
- 5.2 Without prejudice to his/her right to invoke immediately the Formal Grievance Procedure, an employee who believes s/he has been treated unjustly or unfairly is encouraged to raise his/her grievance with his/her immediate supervisor as a matter of first instance, or to raise his/her grievance through an informal approach by his/her union representative.

6. GRIEVANCE PROCEDURES STAGES

- 6.1 The stages set out are for use if there is a possibility of the issue in question being resolved at that stage. Should it be clear that this is not possible the stage(s) in question may be omitted with the process moving to the next appropriate stage. In certain circumstances, the parties may agree to proceed immediately to stage 4 of this procedure if agreement cannot be reached at stage 1.

7. COLLECTIVE PROCEDURE

Prior to invoking the Collective Grievance Procedure

- 7.1 An issue, giving rise to a dispute relating to conditions of service or on a matter relevant to members' employment will normally be raised by the local union representative with the immediate superior and an attempt should be made to resolve the matter in this manner.
- 7.2 The Grievance Procedure may be formally invoked by the Union where such informal process fails to resolve the issue or where such a process is not appropriate.

Note: For all stages in the formal process, management will write to the union outlining its position, normally within ten working days following the meeting.

7.3 Stage 1

- In invoking the formal Grievance Procedure, the Union will do so in writing and will formally set out in writing for the Institute the nature of the grievance and specify that the grievance is collective.
- A meeting will normally be held within ten working days of the Grievance Procedure having been invoked.
- The meeting will be between representatives of the Union and appropriate member(s) of the Institute's Management. Management will ensure that their representatives include at least one member who is fully familiar with the issue(s) concerned
- If the matter is not resolved at the meeting or fails to be resolved or progressed to the satisfaction of the party invoking the procedure the matter may be referred to a Stage 2 meeting by the Union. In the event that the matter is to be referred to Stage 2, the Union will do so in writing to the HR department within ten working days following management's response or the Union may formally invoke Stage 2 immediately and confirm that in writing.

7.4 Stage 2

- A meeting will be held between the appropriate representatives of the Union and the appropriate representatives of the Institute's management, normally the Senior Line Manager (or his or her management nominee acting with his/her authority), a HR representative and such other members of management as the President/Director² considers appropriate. Management will ensure that their representatives include at least one member who is fully familiar with the issue(s) concerned.
- Such a meeting should normally be held within ten working days of the date of referral to Stage 2.

² References to "President/Director" throughout this document refer to the Director of the Institute as defined in Section 9 of the Regional Technical Colleges Act, 1992, as amended or the President of the Institute as defined in Section 9 of the Dublin Institute of Technology Act, 1992, as amended, as appropriate.

- If the matter is not resolved at the meeting or fails to be resolved or progressed to the satisfaction of the party invoking the procedure the matter may be referred to Stage 3 or in agreement with management, directly to Stage 4 meeting by the Union. In the event that the matter is to be referred on, the Union will do so in writing to the HR department within ten working days following management's response or the Union may formally invoke Stage 3/4 immediately and confirm that in writing.

7.5 Stage 3

- In the event that the matter has not been referred to an agreed third party, the matter may be referred to a meeting between appropriate representatives of the Union and the representatives of the Institute concerned.
- The Institute representative group shall consist of the President/Director (or a Senior Manager acting with the authority of the President/Director) as well as such other members of senior management as the President/Director considers appropriate. Management will ensure that their representatives include at least one member who is fully familiar with the issue(s) concerned
- This meeting shall normally take place within ten working days of the referral of the matter to Stage 3.
- If the matter is not resolved at the meeting or fails to be resolved or progressed to the satisfaction of the party invoking the procedure the matter may be referred directly to an agreed third party i.e. Stage 4. In this event, the Union will make the referral in writing where possible within ten working days following management's response or the Union may formally invoke Stage 4 immediately and confirm that in writing. Otherwise, the Union shall, except in circumstances agreed as exceptional, indicate its position within one month following management's response thereby concluding the internal stage of the procedure.

7.6 Stage 4

In the event of disagreement at Stage 2 or Stage 3 the matter shall normally be referred to the Labour Relations Commission and onto the Labour Court or alternatively, an agreed 3rd Party as appropriate, within ten working days of management's response.

8. INDIVIDUAL PROCEDURE

Prior to invoking the Individual Grievance Procedure

- 8.1 A grievance may be defined as a complaint which an employee has concerning his/her terms and conditions, working environment or working relationships. Such issue will normally be raised by the member with the immediate superior and an attempt should be made to resolve the matter in this manner.
- 8.2 The Grievance Procedure may be formally invoked by an individual employee or by the Union on his/her behalf where such informal process fails to resolve the issue or where such a process is not appropriate.

Note: In certain circumstances where both parties are agreeable, the matter may be referred to mediation.

- 8.3 In the Individual Grievance Procedure the aggrieved employee may be accompanied or represented at each stage by a Union representative/s³ or a work colleague who may make representations on his/her behalf.
- 8.4 For all stages in the formal process, management will write to the union outlining its position, normally within six working days following the meeting.
- 8.5 Where it becomes clear at any time during the process that the matter is more appropriate to the Collective Grievance Procedure, it shall be referred to the appropriate stage under that procedure subject to the agreement of the relevant recognised trade union.

8.6 Stage 1

- The Grievance Procedure must be formally invoked. The individual employee or the union, on behalf of the employee, will formally do so in writing setting out for the Institute the nature of the grievance.
- A meeting will normally be held within six working days of the Grievance Procedure having been invoked.
- The meeting will normally be between the complainant, the representatives of the union or a colleague and the line manager who may be accompanied by an appropriate member(s) of the Institute's Management.
- If the matter is not resolved at the meeting or fails to be resolved or progressed to the satisfaction of the individual employee the matter may be referred to a Stage 2 meeting by the employee or the union on behalf of the employee within six working days of management's response or Stage 2 may be formally invoked immediately and subsequently confirmed in writing.

8.7 Stage 2

- A meeting will be held involving the employee, the Union representative/s or work colleague and appropriate Senior Line Manager, a representative from HR and the individual's line manager as appropriate. Management will ensure that their representatives include at least one member who is fully familiar with the issue(s) concerned
- Such a meeting should normally be held within six working days following the date of referral to Stage 2.
- If the matter is not resolved at the meeting or fails to be resolved or progressed to the satisfaction of the employee the matter may be referred to a Stage 3 meeting by the employee or the Union on behalf of the employee within six working days following management's response or the Stage 3 may be formally invoked immediately and subsequently confirmed in writing.

³ For the purposes of this procedure "representative" includes a colleague of the employee's choice or a recognised trade union which holds the negotiating rights for the grade of the employee but not any other person/body unconnected with the enterprise.

8.8 Stage 3

- This stage will take place involving the employee, Union representative or work colleague and with the appropriate Senior Management as nominated by the President/Director and a representative from HR. The President/Director or his/her nominee will ensure that their team or their representatives contain at least one member who is fully familiar with the issue(s) concerned.
- This meeting shall take place within six working days of the referral of the matter to it.
- If the matter is not resolved at the meeting or fails to be resolved or progressed to the satisfaction of the employee, the matter may be referred to a Stage 4 meeting by the employee or the Union on behalf of the employee where possible within six working days following management's response or Stage 4 may be invoked immediately and subsequently confirmed in writing. Otherwise, the employee or the Union on behalf of the employee shall, except in circumstances agreed as exceptional, indicate its position within twelve working days following management's response thereby concluding the internal stage of the procedure.

8.9 Stage 4

- If the matter remains unresolved to the satisfaction of the party invoking the procedure, the employee or the Union on behalf of the employee will have the option of referring the matter to the Labour Relations Commission/Rights Commissioner Service/Conciliation service of the Labour Relations Commission or an alternative agreed third party as soon as practicable.

9. REVIEW

- 9.1 This procedure will be subject to review within two years of its implementation and periodically thereafter as requested by any party. All parties to the discussions as set out in paragraph 1.1 will be invited to participate in any review. The review process will take account of any relevant changes in future national agreements.

Appendix 1

Voluntary Code of Practice in relation to Terminal Examinations

1. Introduction

Sustaining Progress provides that the parties to the agreement are committed to agreeing voluntary codes of practice to address in particular the maintenance of essential services. These codes should reflect the Code of Practice (*Dispute Procedures Including Procedures in Essential Services*) prepared by the Labour Relations Commission (S.I. No. 1 of 1992). In the case of the institutes of technology it is agreed that this voluntary Code of Practice will operate in relation to terminal examinations (including end of semester examinations, end of year examinations, and terminal oral, practical examinations).

There is already an agreement in place – an Industrial Relations Forum -between the institutes and the Teachers' Union of Ireland to provide a means acceptable to the parties concerned for dealing with claims and proposals relating to salaries and other emoluments and the conditions of service of academic staff. The Forum is chaired by a member of staff of the Labour Relations Commission. In addition, procedures have been agreed between the each institute and the Union covering collective and individual grievance procedures. This Forum and grievance procedures provides the means for dealing with all issues in relation to terminal examinations in respect to the academic staff. The stages are briefly set out in paragraphs 3.7 to 3.14.

2. Matters Appropriate

It is agreed that this code of practice (and fora and procedures referred to above) will apply to all matters in relation to terminal examinations (from setting of examination papers, the holding of examinations to issuing of examination results) in so far as they relate to staff of the institutes. It is agreed that the Labour Relations Commission and the Labour Court will be used in relation to claims/issues in relation to terminal examinations made on behalf of staff which are not resolved in local discussions and/or the Industrial Relations Forum and Grievance Procedures referred to above, as appropriate.

3. Procedure

A. Non-teaching staff

- 3.1 Issues or claims that may effect in any manner the holding, marking etc of terminal examinations will be the subject of discussion in the first instance at institute level between the relevant union(s) and institute management or where appropriate at the appropriate national IR Forum where these have been established.
- 3.2 Where agreement between the parties is not possible the issue shall be referred to the Labour Relations Commission. Matters will not be referred to the Commission without having been the subject of local/national discussion between the parties in which every effort shall be made to resolve the issue.
- 3.3 Where agreement is not reached at the Labour Relations Commission, the parties agree to refer the matter(s) to the Labour Court.

- 3.4 Recommendations of the Labour Court shall normally be accepted.
- 3.5 During the period in which the procedures are being followed a union shall not threaten, sponsor, support or resort to strike, industrial action, including work to rule or other restrictive practices, or public agitation as a means of furthering claims which are appropriate to be dealt with through this Code of Practice where all the procedures have not been exhausted.
- 3.6 A ballot for industrial action should not be conducted in advance of all stages of the procedures of the Scheme having been exhausted where these procedures are being operated in good faith.
- B. Lecturing Staff**
- 3.7 Issues or claims that may effect in any manner the holding, marking etc of terminal examinations will be submitted to the IR Forum as set out in the agreement.
- 3.8 The Forum will endeavour to resolve the issues before it and conclude an agreement. However, at the request of one of the parties, disagreement may be recorded.
- 3.9 Issues on which disagreement has been recorded will be referred for facilitation to the Labour Relations Commission at the request of any party
- 3.10 If issues which have been referred to the Labour Relations Commission cannot be resolved at that Forum, the Industrial Relations Officer may be requested by either party to submit the issue to the Labour Court for its consideration and recommendation.
- 3.11 Recommendations of the Labour Court shall normally be accepted.
- 3.12 The Union shall not sponsor, support or resort to strike, industrial action, including work to rule or other restrictive practices as a means of furthering claims in relation to matters which are appropriate for processing through this industrial relations framework where all provisions of the framework have not been exhausted.
- 3.13 Individual or collective grievances that may effect any aspect of terminal examinations shall be processed in accordance with the relevant procedure.
- 3.14 In cases where all the stages have been used or where it is accepted by both parties that agreement will not be reached the parties agree to use the Labour Relations Commission and the Labour Court as agreed mechanism to try and resolve the issue(s).
- 3.15 Should an issue be referred through the Grievance Procedure, the status quo ante shall prevail.

4. Urgent Disputes

Matters may arise from time to time which require to be dealt with urgently. In such circumstances meetings at institute/national level, as appropriate, shall be convened between the parties without delay and both sides shall co-operate fully in making arrangements for these meetings. In the event that the matter is not resolved at such

meetings, this Code provides for referral to the machinery of the Labour Relations Commission and the Labour Court.

5. Timeframe

All sides are committed to ensuring that each stage in the procedures will be carried out as quickly as possible.

6. IR Fora

Where fora and or grievance procedures are not already in place, it is agreed to establish such fora and or procedures to deal with industrial relations and grievance issues and to process claims. It is agreed that the procedures will include the referral of issues that are not resolved at the fora to the Labour Relations Commission and the Labour Court and that no industrial action will be undertaken while the procedures are being operated. Where such fora and procedures are established the processes may be used instead the provisions set out for non teaching staff.

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