



Local Government Staff Commission (Scotland)

Chairman: R G E Peggie CBE
Secretary: E C Davison

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Edinburgh EH3 7EH
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CIRCULAR 8 /95

Chief Executives of Regional, Islands and District Councils
Chief Executives of New Councils
Chief Executives of New Water and Sewerage Authorities



Copy to: Principal Reporter, Scottish Children's Reporter Administration
Chief Constables
Firemasters
Regional Assessors
Director General, Strathclyde Passenger Transport Executive

24 August 1995

Dear Chief Executive

APPEALS

1. The Staff Commission has been considering what arrangements should be made for resolving grievances and appeals by individual employees arising from the reorganisation of local government in Scotland. We have consulted local authority and Trade Union representatives and the annex to this circular sets out the framework which we have agreed should apply. These arrangements have been formally agreed by Scottish employers and Trade Unions through the COSLA/Trade Union Joint Forum.

Grounds of Appeal

2. The Staff Commission has already given detailed advice on the allocation of staff to new authorities; it will also be giving advice on the matching of staff to the new staffing structures. The Commission has therefore agreed that formal appeals may only be made against the failure of a local authority to follow or properly observe that advice.

The Appeals Procedure

3. The Commission hopes that, in the interests of staff, most of the problems over assignment or transfer will be settled quickly at the local level. In order to minimise the need for formal appeals, existing employers may wish to initiate informal procedures covering provisional placements on Staff Transfer Schemes with

employees and their representatives as soon as possible. Many authorities have already started this process and the Commission hopes that most of the problems can be resolved during these informal discussions.

4. However, if an employee still considers that he or she has a grievance against a failure to follow Staff Commission advice this should be made known to the employing authority as soon as possible. Where they have not already done so, existing councils should now begin to set up machinery for local hearings in line with the annex to the COSLA/Joint Trade Union agreement.

Timing

5. Councils should ensure that local machinery is in place by 30 September 1995. Although staff transfers will not be formalised until the Staff Transfer Scheme has been agreed between old and new authorities, this should not delay the hearing of appeals. If, after local discussions, an employee has formally intimated a grievance the authority should seek to deal with it as quickly as possible. Only when the local appeals machinery has been exhausted will individuals have the right to take their appeals to the Joint Secretaries. **The Staff Commission therefore regards it as particularly important that appeals are held with the minimum of delay and that timetables for the various stages are closely adhered to.**

Staff to be covered

6. These arrangements will cover all staff affected by the reorganisation, to the extent that their transfer or assignment is governed by Staff Commission advice.

Reorganisation Appeals Panel

7. The Joint Secretaries will consider all cases referred from the local machinery. They will consider whether the local authority has followed the advice of the Staff Commission and has taken account of the relevant factors. They may refer cases back to authorities for further consideration and will indicate any issues of particular concern. If the Joint Secretaries are not satisfied with the result, they will refer the case to the Reorganisation Appeals Panel.

8. The Staff Commission will issue further guidance on the operation of the Panel in due course.

Industrial Tribunals

9. Authorities should also bear in mind that whatever arrangements are implemented, and whatever the results of any appeal, employees' statutory rights of access to Industrial Tribunals on matters within their jurisdiction remain.

Publicity

10. Authorities should bring this circular to the attention of all their employees.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'R G E Pegg'. The signature is written in a cursive style with a large initial 'R' and 'P'.

R G E Pegg

**LOCAL GOVERNMENT REORGANISATION (SCOTLAND)
APPEALS MACHINERY**

1. This document sets out agreed arrangements for considering formal appeals made by individual members of staff as a consequence of local government reorganisation.
2. The contents of this document have been agreed by the Scottish Employers and appropriate trade unions through the COSLA/Trade Union Joint Forum. It should be read in conjunction with the broad principles outlined in the COSLA/Trade Union Joint Forum advice to councils on the transfer of staff.
3. In determining where the existing or new council or successor body is concerned with the resolution of a grievance, the following will apply -
 - a. A matter relating only to the existing council should be determined only by that council.
 - b. Some appeals will require the joint consultation of both existing and new councils/successor bodies, in which case the onus of determination will be on the new council/successor body after consultation with the existing authority.
 - c. Any appeal uncleared on 1 April 1996 or arising after that date will become the responsibility of the new council/successor body to which the employee is transferred.

Grounds of appeal

4. Appeals to be considered under the arrangements set out in this document must stem directly from the reorganisation. Appeals must be based on the failure of a council or successor body to follow or properly observe the advice issued by the Local Government Staff Commission (Scotland) on the allocation of staff to new councils or successor bodies or its advice on the matching of staff to posts.

Procedure for settling appeals

5. If an employee considers that he or she has a grievance this should be made known to his or her employing authority as soon as possible. It will be for individual authorities to organise their own machinery for local hearings, provided that it is generally compatible with the procedure outlined at Annex A.
6. If an employee is dissatisfied with the outcome of the local appeals machinery then he or she may ask for the case to be considered by the Joint Secretaries of the COSLA/Trade Union Joint Forum. The Joint Secretaries are:-
 - Mark Irvine, UNISON, Douglas House, 60 Belford Road, Edinburgh EH4 3UQ
 - The Secretary General, COSLA, Rosebery House, 9 Haymarket Terrace, Edinburgh EH12 5XZ
7. The Joint Secretaries will consider whether the employing authority has followed the advice of the Staff Commission and has taken account of the relevant factors. If

the Joint Secretaries are not satisfied that the authority has acted appropriately it will refer the case back for further consideration. If mediation or further advice from the Joint Secretaries does not resolve the case, then the Joint Secretaries may refer the case to the Reorganisation Appeals Panel.

8. The Reorganisation Appeals Panel will consist of one member from the Trade Union Side and one from the Employers' Side. Neither member will be from the area covered in the appeal. The Chairman shall be a member of the Staff Commission, or some other independent person from a list to be agreed by the Staff Commission. The decisions of the Reorganisation Appeals Panel will be binding on all of the parties to the appeal.

9. The Staff Commission will issue details on the arrangement for the panel to hear appeals in due course. The Commission will also issue advice on the procedure for appeals in relation to the misapplication by new councils of advice on matching staff to posts in the new councils or successor bodies.

August 1995

PROCEDURE FOR SETTling APPEALS AT LOCAL LEVEL

1. If an employee has a grievance, he or she should submit details in writing to the appropriate Head of Department (or other nominated senior officer). This can be done individually or through a Trade Union representative.
2. The Head of Department (or nominated officer) should reply in writing to the appeal as soon as possible and in any case within 5 working days.
3. Where necessary, the Head of Department should arrange a meeting with the parties concerned, including a representative of the appropriate trade union, if requested. This meeting should be held within 5 working days and a written reply made as soon as possible and in any event within 5 working days of the meeting.
4. If an employee is still dissatisfied with the department's decision he or she may, either individually or through a Trade Union representative, submit a written request that the matter be considered by an appropriate committee (or sub-committee) of the council.
5. Before the appeal is considered by the committee, the council's head of personnel should arrange a meeting of the parties and try to resolve the matter.
6. Failing that, the committee hearing should be convened within 6 weeks. Employees should be able to attend in person and, if they wish, they may be accompanied by a colleague or a representative of the Trade Union. A representative of the appropriate department and/or the personnel department should also attend.
7. The decision of the committee will normally be final. However, if an employee considers that the council has not acted in accordance with the advice of the Staff Commission, he or she may ask for the matter to be referred to the joint Secretaries of the COSLA/Trade Union Joint Forum for further consideration.

August 1995

24 August 1995

Your Ref:

Our Ref: P/11/7-LD/EAH

To:

Chief Executives, Regional, District and Islands Councils
Chief Executives, New Councils

Dear Chief Executive

LOCAL GOVERNMENT REORGANISATION - APPEALS MACHINERY

Agreement has been reached within the COSLA/Trade Union Forum on an appeals mechanism for the resolution of grievances and appeals by individual employees arising from the reorganisation of local government. Whilst it is hoped that the majority of problems can be settled informally at local level, it is acknowledged that there is a need for a formal mechanism to deal with appeals against a local authority's failure to follow Staff Commission advice on the allocation of staff or on the matching of staff to posts. The procedure has received the endorsement of the Staff Commission who are issuing it under cover of their own circular.

Copies of both the agreement and news release are attached for information and any further advice can be obtained from the Joint Secretaries.

Yours sincerely

SECRETARY GENERAL, COSLA (Authorities Side)
MARK IRVINE, UNISON (Trade Union Side)

Joint Secretaries to the COSLA/Trade Union Forum

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WHEN CALLING PLEASE ASK FOR: Lynne Dickson



Convention of Scottish Local Authorities
Rosebery House 9 Haymarket Terrace Edinburgh EH12 5XZ
Telephone 0131 346 1222 Fax 0131 346 0055
DX No. ED407 Edinburgh

JOINT COSLA/TRADE UNION FORUM
LOCAL GOVERNMENT REORGANISATION
APPEALS MACHINERY

1. This document sets out agreed arrangements for considering formal appeals made by individual members of staff as a consequence of local government reorganisation.
2. The contents of this document have been agreed by the Scottish Employers and appropriate trade unions through the COSLA/Trade Union Joint Forum. It should be read in conjunction with the broad principles outlined in the COSLA/Trade Union Joint Forum advice to councils on the transfer of staff.
3. In determining where the existing or new council or successor body is concerned with the resolution of a grievance, the following will apply -
 - (a) A matter relating only to the existing council should be determined only by that council.
 - (b) Some appeals will require the joint consultation of both existing and new councils/successor bodies, in which case the onus of determination will be on the new council/successor body after consultation with the existing authority.
 - (c) Any appeal uncleared on 1 April 1996 or arising after that date will become the responsibility of the new council/successor body to which the employee is transferred.

GROUNDS OF APPEAL

4. Appeals to be considered under the arrangements set out in this document must stem directly from the reorganisation. Appeals must be based on the failure of a council or successor body to follow or properly observe the advice issued by the Local Government Staff Commission (Scotland) on the allocation of staff to new councils or successor bodies or its advice on the matching of staff to posts.

PROCEDURE FOR SETTLING APPEALS

5. If an employee considers that he or she has a grievance this should be made known to his or her employing authority as soon as possible. It will be for individual authorities to organise their own machinery for local hearings, provided that it is generally compatible with the procedure outlined at Annex A.
6. If an employee is dissatisfied with the outcome of the local appeals machinery then he or she may ask for the case to be considered by the Joint Secretaries of the COSLA/Trade Union Joint Forum. The Joint Secretaries are:-

Mark Irvine, UNISON, Douglas House, 60 Belford Road, Edinburgh EH4 3UQ
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7. The Joint Secretaries will consider whether the employing authority has followed the advice of the Staff Commission and has taken account of the relevant factors. If the Joint Secretaries are not satisfied that the authority has acted appropriately it will refer the case back for further consideration. If mediation or further advice from the Joint Secretaries does not resolve the case, then the Joint Secretaries may refer the case to the Reorganisation Appeals Panel.
8. The Reorganisation Appeals Panel will consist of one member from the Trade Union Side and one from the Employers' Side. Neither member will be from the area covered in the appeal. The Chairman shall be a member of the Staff Commission, or some other independent person from a list to be agreed by the Staff Commission. The decisions of the Reorganisation appeals Panel will be binding on all of the parties to the appeal.
9. The Staff Commission will issue details on the arrangement for the panel to hear appeals in due course. The Commission will also issue advice on the procedure for appeals in relation to the misapplication by new councils of advice on matching staff to posts in the new councils or successor bodies.

PROCEDURE FOR SETTLING APPEALS AT LOCAL LEVEL

1. If an employee has a grievance, he or she should submit details in writing to the appropriate Head of Department (or other nominated senior officer). This can be done individually or through a Trade Union representative.
2. The Head of Department (or nominated officer) should reply in writing to the appeal as soon as possible and in any case within 5 working days.
3. Where necessary, the Head of Department should arrange a meeting with the parties concerned, including a representative of the appropriate trade union, if requested. This meeting should be held within 5 working days and a written reply made as soon as possible and in any event within 5 working days of the meeting.
4. If an employee is still dissatisfied with the department's decision he or she may, either individually or through a Trade Union representative, submit a written request that the matter be considered by an appropriate committee (or sub-committee) of the council.
5. Before the appeal is considered by the committee, the council's head of personnel should arrange a meeting of the parties and try to resolve the matter.
6. Failing that, the committee hearing should be convened within 6 weeks. Employees should be able to attend in person and, if they wish, they may be accompanied by a colleague or a representative of the Trade Union. A representative of the appropriate department and/or the personnel department should also attend.
7. The decision of the committee will normally be final. However, if an employee considers that the council has not acted in accordance with the advice of the Staff Commission, he or she may ask for the matter to be referred to the Joint Secretaries of the COSLA/Trade Union Joint Forum for further consideration.

REORGANISATION APPEALS MECHANISM ESTABLISHED

News Release

A new appeals panel to deal with local government employees' grievances during reorganisation has been established by the Joint COSLA/Trade Union Forum, with the endorsement of the Staff Commission.

The Reorganisation Appeals Panel will deal with cases where an authority has failed to follow the advice of the Staff Commission on allocation of staff to the new councils or on the matching of staff to posts.

Membership of the Panel will comprise a member each from the Trade Union and Employers' sides - neither from the area covered in an appeal - and will be chaired by a member of the Staff Commission or another independent person from a list agreed by the Staff Commission.

Councillor Pat Watters, convener of COSLA's Personnel Services Committee and Mark Irvine of local government union Unison, described the establishment of the Reorganisation Appeals Panel as another step in reassuring local government employees during a period of major upheaval.

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In a joint statement they say: "Reorganisation has brought with it a period of uncertainty for the 300,000 local government employees in Scotland and it is important to us in the Joint Forum that their fears for the future are allayed as far as possible.

"We hope that this ultimate safety net will show staff that their concerns are very much in our minds and that we are taking all possible steps to put in place a system that will deal with any difficulties quickly and smoothly."

Endorsing the appeals procedure, Bob Peggie, Chairman of the Staff Commission, comments: "It is in the interests of staff that problems over assignment or transfer should be settled quickly at the local level, with backing from a national panel where problems cannot be resolved locally."

The Staff Commission will issue the guidance on appeals procedures as one of their own circulars to authorities.

The Reorganisation Appeals Panel will come into play when a council employee has completed internal grievance procedures. It will deal only with cases stemming directly from reorganisation where a council or its successor body has not followed Staff Commission advice on staff allocation or matching of staff to posts.

The Joint Forum's agreement on appeals procedures during reorganisation also includes guidelines for settling appeals at local level.

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NOTES TO EDITORS

1. A copy of the Joint Forum's guidelines on appeals is attached.
2. Publication of guidelines on appeals procedures follows publication in March 1995 of the Joint Forum's six-point plan for transitional arrangements during reorganisation which stated that an appropriate appeals mechanism should be agreed as a matter of priority. Copies of this plan are available from COSLA's press office.

Further information from: Maureen Ferrier, Press Officer, COSLA
Tel: 0131 346 1222/2182 (office)
0131 319 1590 (home)

Date: August 24, 1995