

## ANGUS COUNCIL

## RESOURCES &amp; CENTRAL SERVICES COMMITTEE

20 OCTOBER 2005

## STATUTORY GRIEVANCE PROCEDURE

## REPORT BY CHIEF EXECUTIVE

**ABSTRACT**

This report advises elected members of the Statutory Grievance Procedure and proposes a mechanism by which the council could respond to such grievances leaving all other grievances to be considered in accordance with the council's existing Grievance Procedure.

**1. RECOMMENDATION**

The Committee:

- a) Agree that a grievance raised under the Statutory Grievance Procedure should:
  - i. in the first instance be heard by the appropriate head of department advised by a representative from Personnel Services, and that
  - ii. any subsequent appeal should be heard by the Chief Executive advised by the Personnel Services Manager.
- b) Note that the council's existing Grievance Procedure will be used for all other grievances.

**2. INTRODUCTION**

The Statutory Grievance Procedure is a mandatory three step procedure which must be invoked by an employee before they can lodge an Employment Tribunal claim in relation to one of their statutory employment rights e.g. equal pay or discrimination claims, most rights for trade union members and officials, the national minimum wage, unlawful deductions from wages, working time claims and redundancy pay rights.

The mandatory three steps of the procedure are:

- the employee must set out their grievance in writing and send it to the employer
- the employer must invite the employee to a meeting to discuss the grievance
- if the employee so wishes they must have a right of appeal

Once an employee submits a grievance on an issue covered by the Statutory Grievance Procedure they can, 28 days after the employer's receipt of the grievance, lodge an Employment Tribunal claim.

Should the employee's claim be successful, the amount of any award made by the Employment Tribunal would automatically increase by between 10% and 50% if the employer has failed to comply with the Statutory Grievance Procedure within the 28 day period.

There is no requirement on an organisation to amend its internal grievance procedure if this complies with the statutory requirements i.e. if it includes the three steps described above. In this respect the council's grievance procedure is compliant and where this is the case an employee may be required to use the internal procedure to address the grievance - providing this can be done within 28 days.

Meeting this timescale presents considerable problems within the local government context where, as is the case in Angus, grievance appeals are generally heard by elected members. Our procedure requires that the Appeals Sub Committee meet within 10 weeks of notification of an appeal – a timescale which reflects practical realities.

In addition to the problems presented by the statutory timescale, there is a further issue relating to the scope of our grievance procedure. As is the norm within local authorities, our procedure deals with a wider range of potential areas of grievance than the statutory procedure, including the application of national and local agreements and working conditions, but it specifically prohibits consideration of any matter relating to grades, wages and salaries. Consequently it would not be appropriate to consider a statutory grievance relating to such a matter within our procedure.

### **3. PROPOSAL**

The council has recently received two grievances, registered under the Statutory Grievance Procedure, relating to equal pay.

In light of the considerations outlined above, and, in particular, the timescales within which statutory grievances must be addressed; the potential consequences of failing to meet these timescales; and the fact that matters relating to pay fall outwith the scope of our internal procedure, it is proposed that the following alternative mechanism be adopted to deal with issues raised under the Statutory Grievance Procedure:

- in the first instance the grievance be heard by the appropriate head of department advised by a representative from Personnel Services, and that
- any subsequent appeal should be heard by the Chief Executive advised by the Personnel Services Manager.

### **4. FINANCIAL IMPLICATIONS**

There are no financial implications associated with this report.

### **5. HUMAN RIGHTS IMPLICATIONS**

The procedure proposed in this report is considered to be compliant with the requirements of human rights legislation.

### **6. CONSULTATION**

The Director of Law & Administration and the Acting Director of Finance have been consulted on the terms of this report.

**D S Sawers**  
**Chief Executive**

HR/PerServMan

**NOTE** No background papers, as defined by Section 50D of the Local Government (Scotland) Act 1973, (other than any containing confidential or exempt information) were relied on to any material extent in preparing the above Report.