

Reference No: E107/15/88; **Date:** 26/02/2001

Circular 11/2001:- Revised procedure for dealing with grievance problems

A Dhuine Uasail

I am directed by the Minister for Finance to say that he has accepted an agreed recommendation by the General Council under the Scheme of Conciliation and Arbitration for the Civil Service on the improvement of formal procedures for dealing with grievance procedures.

Background

The grievance procedure is a process that seeks to deal with the complaints of individual members of staff which are not appropriate for discussion under the Conciliation and Arbitration (C&A) Scheme. The Grievance Procedure has been in existence since 1984 and was revised in 1992.

While the benefits of such a scheme are accepted by all, negotiations have been ongoing for a number of years to amend and improve the grievance procedure outlined in Circular 1/92. The revised procedure, a copy of which is attached at appendix A to this circular, is broader in its scope and more efficient in its application.

Revisions

The revised grievance procedure streamlines and simplifies the procedure for dealing with grievances. It also widens the scope of the scheme to deal with claims relating to the redeployment of staff in posts with significant overtime work, shift allowance and or travel.

The more notable changes include: a Personnel Officer must now outline, in writing to the complainant, the reasons for not referring a case to the Mediation Officer; the new procedure provides for the submission of an annual report on the operation of the scheme in each Department/Office to the Mediation Officer, and; publication of an annual report on the operation of the grievance procedure generally.

It was agreed that certain limitations, which are outside the scope of the scheme would continue, for example: disciplinary action taken in accordance with the provisions of the disciplinary code; selection for promotion or assignment to a post carrying an allowance, and; exclusion from competitions or from consideration for promotion on grounds of health or sick leave record. It was also agreed that the interpretation of agreed reports would continue to be a matter for the appropriate Conciliation Councils and not the Mediation Officer, although the Mediation Officer would not be precluded from making recommendations in respect of the practical day-to-day application of such general regulations, circulars etc., in individual cases.

The revised grievance procedure will apply in all cases where the conduct complained of occurs not earlier than the date of this circular.

This circular supersedes the grievance procedure set out in Appendix 1 of Circular 1/92.

Enquiries regarding this circular should be directed to Mr. Terry Jennings or Mr. Ken Spratt, General Conditions Section at the Department of Finance, 73-79 Mount St., Dublin 2 (Tel: 6045439).

Please bring this circular to the attention of all officers in your Department/Office.

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J. McGovern
Assistant Secretary

Appendix A

Revised Grievance Procedure

Revised Grievance Procedure

1. The Grievance Procedure is a process that seeks to deal in a fair, prompt and impartial manner with the complaints of individual members of staff which are within the scope of the procedure but which are not appropriate for discussion under the Conciliation and Arbitration Scheme.
2. Complaints by officers about acts or omissions of management which affect their official positions and which are not appropriate for discussion under the Conciliation and Arbitration Scheme shall be dealt with in the following manner:

Stage I

- (1) The complainant and the officer whose act or omission is complained of shall discuss the matter with a view to resolving it informally.
- (2) If it is not possible to resolve the matter informally, the complainant shall outline the complaint in writing to the officer whose act or omission is complained of (and shall send a copy to that officer's superior), indicating (a) that s/he is invoking the grievance procedure and (b) the corrective action sought. The officer complained of shall reply in writing within two weeks.
- (3) A complainant who is not satisfied with the response by the officer complained of may refer the matter in writing to the Personnel Section. Within two weeks of such referral, the Personnel Section shall arrange a meeting of those directly concerned including, if s/he so wishes, the complainant's union representative.
- (4) Should it not be possible to resolve the matter by agreement, the Personnel Section shall make a decision on the complaint and shall convey that decision, together with the reasons for it, to the parties in writing.

Stage II

3. A complainant who is dissatisfied with the decision of management on the complaint may make a written request to the Personnel Officer that the dispute be referred to a Mediation Officer appointed by the Minister for Finance with the agreement of the General Council Staff Panel. Any such request shall be dealt with on the following basis:
 - (a) complaints concerning the following shall **not** be referred to the Mediation Officer:

disciplinary action taken in accordance with the provisions of the disciplinary code;

selection for promotion, whether by way of competition or normal course promotion;

selection for assignment to a post carrying an allowance or to a post abroad, or for placement on higher scales of payment under restructuring agreements;

exclusion from competitions or from consideration for promotion on grounds of health or sick leave record;

- (b) Subject to (a) above, the Personnel Officer shall not refuse to refer a complaint to the Mediation Officer where the complainant has suffered an immediate and direct loss of earnings as a consequence of the action complained of or where a complaint refers to the redeployment of staff in the circumstances set out in appendix 1.
 - (c) In any other case the complaint shall be referred to the Mediation Officer if the Personnel officer considers the matter appropriate for such reference. Where the Personnel Officer considers that a complainant's case is not appropriate for reference to the Mediation Officer, s/he shall state the specific reasons for his or her decision, in writing, to the complainant.
4. The Mediation Officer shall investigate any matter referred to him/her and mediate between the parties with a view to resolving the dispute amicably. Where such resolution is not possible, the Mediation Officer may make such recommendation as s/he considers appropriate. Where the action complained of is defended on the grounds that it was required by the needs of the work, the Mediation Officer shall accept that the definition of the needs of the work is a matter for management but may uphold the complaint on the grounds that the action complained of was arbitrary, improperly discriminatory or otherwise inconsistent with good management practice.
- In any case referred to him/her, the Mediation Officer shall accept that the interpretation of general regulations, circulars or agreed reports of General Council or Departmental Councils is not a matter for mediation. However, this does not preclude him/her from making a recommendation in respect of the day to day practical application of such general regulations, circulars, etc., in an individual case at issue.
5. Each Personnel Officer shall provide a report each year to the Mediation Officer on the operation of the grievance procedure in his or her department. The report will detail:

the number and nature of cases dealt with under Stage I of the procedure;

the number and nature of cases where complainants requested a referral to the Mediation Officer and such request was refused;

the reasons for the refusal of requests for referral to the Mediation Officer.

Each Personnel Officers shall include with such report copies of letters from complainants invoking the grievance procedure where:

- (a) such cases have been resolved under Stage I of the procedure; or
- (b) requests for referral to the Mediation Officer have been refused under Stage II.

6. The Mediation officer will publish a report each year on his or her activities and the operation of the grievance procedure generally.

Notes:

- (i) During the above procedure the complainant will continue to work normally, in compliance with the instructions of his/her supervisor(s).
- (ii) The time limits and arrangements set out above are meant as a guide and should be interpreted by all parties in a reasonable manner. However, all parties should try to ensure that complaints are dealt with in a prompt and efficient manner.
- (iii) While provision is made in the above procedure for formal union involvement at Stage I (3), the involvement of the appropriate local union representative at an earlier stage is not precluded, provided the complainant so requests.
- (iv) Any difficulties which arise within a Department regarding the detailed implementation of this procedure should be resolved at Departmental level.

Appendix 1

1. The right of management to deploy staff as the work and the exigencies of the service demand, is recognised and accepted by the Staff Side. In exercising its right to deploy staff and consistent with its responsibility to ensure that work is carried out in an effective and efficient manner, management will have regard to such matters as the needs of the work, staff development and earning potential. The official side indicated that it would agree to a position where in any case in which an officer had been in a post with significant associated overtime working, shift allowance and/or travel and
 - (i) the officer had been serving in the post for more than four years;
 - (ii) the officer was transferred from the post at short notice;
 - (iii) there was scope available to management to allow a greater degree of forewarning (i.e., the needs of the work did not dictate the requirement for an immediate transfer); and
 - (iv) in cases involving travel, the officer concerned had purchased a car less than twelve months old within the twelve month period immediately prior to the notification of the proposed transfera Personnel Officer would not refuse to refer the case to the Mediation Officer.

2. In the case of travel the Mediation Officer shall take account of:
 - (i) the residual value of the officer's car on the date of notification of the transfer of the officer; and
 - (ii) the amount of official mileage undertaken by him/her as a proportion of total mileage in the period between the date of purchase of the officer's car and the date of notification of his or her transfer or the period of twelve months prior to the date of notification of his or her transfer to other duties, whichever period more accurately reflects the norm of the pattern of travel associated with the post,in making a determination on any case so referred.