

EAST AYRSHIRE COUNCIL

EDUCATION COMMITTEE – 11 APRIL 2002

LOCAL RECOGNITION AND PROCEDURE AGREEMENT

Report by Director of Educational and Social Services

1. PURPOSE

- 1.1** To seek approval for a Local Recognition and Procedure Agreement between the authority and the teachers' trades unions following guidance issued by the Scottish Negotiating Committee for Teachers (SNCT).

2. BACKGROUND

- 2.1** Until the Standards in Scotland's Schools etc Act 2000, teachers pay and conditions of service were negotiated through a statutory body, the Scottish Joint Negotiating Committee (SJNC). The new Act abolished the SJNC. A new, non statutory body has replaced it, this is the Scottish Negotiating Committee for Teachers – the SNCT. The SNCT is a tri-partite negotiating structure, with representation from the Scottish Executive Education Department (SEED), the Convention of Scottish Local Authorities (CoSLA) and the teachers' unions. A number of Circulars have already been issued by the SNCT covering aspects of teachers' pay and conditions following the national agreement "A Teaching Profession for the 21st Century", usually referred to as the McCrone settlement, or McCrone agreement. One of the first acts of the SNCT was to adopt the description of teachers' conditions of service developed by the SJNC and contained in the document referred to by teachers and employers alike as "The Yellow Book".
- 2.2** From the time of the McCrone agreement it has been envisaged that there would be a division of labour between the national negotiating machinery and negotiations at local level. The first development along these lines was the local agreement on the working week reported to the Joint Consultative Committee (JCC)(teachers) on 29 May 2001. This used guidelines issued at national level and then moulded them into an agreement suited to the situation of East Ayrshire.
- 2.3** The Department of Educational and Social Services has arrangements in place to consult staff who are employed in schools who are not teachers.

3. LOCAL FRAMEWORK RECOGNITION AND PROCEDURE AGREEMENT

- 3.1** The SNCT has issued a circular on local negotiation as SNCT/8. This Circular, which is available in the Members' Library forms the basis of this report.

3.2 SNCT 8 distinguishes between “national matters” and “devolved” matters. A local negotiating structure is required to consider the devolved matters. All local agreements have to be reported to the SNCT for information. A model framework is attached to SNCT 8 as a basis for a “Local Recognition and Procedure Agreement”. The proposal for East Ayrshire is attached as Appendix 1.

3.3 In summary, the draft Local Recognition and Procedure Agreement appended to this report:

Provides for the recognition by the Council of the signatory unions as the sole representatives of the relevant staff on all matters related to conditions of service which are subject to local negotiation and as the sole bargaining agents for those conditions of service.

- Establishes a bargaining machinery and negotiating procedure, including the establishment of the East Ayrshire Council Joint Negotiating Committee for Teaching Staff.
- Makes provision for the membership of that Committee being up to 9 persons appointed by the Management Side and up to 9 persons appointed by the Joint Union Side, each side appointing a Joint Secretary.
- Makes provision for the quorum, convenorship, clerking and procedures for the Joint Negotiating Committee, including a specific provision that a matter shall be agreed by the Committee only if approved by both sides based on a vote, when required, within each side.
- Makes provision for substitute members.
- Provides for referral in cases in which agreement is not possible to the Joint Secretaries of the SNCT.
- Stipulates that agreements reached by East Ayrshire Council Joint Negotiating Committee shall be binding on East Ayrshire Council and the signatory unions.

3.4 The East Ayrshire Council Joint Negotiating Committee for Teaching Staff will not be a Committee of the Council. It will therefore not have the power to take a decision on behalf of the Council. If the Council accepts the terms of the attached draft Agreement, it is suggested that the Council delegate to the Director of Educational and Social Services, or in his absence that officer who is discharging the duties for the Director of Educational and Social Services, in consultation with the Chair of the Education Committee, power to determine on behalf of the Council and implement any matter within the terms of reference of the East Ayrshire Council Joint Negotiating Committee. In this way, implementation of the provision that agreements reached by the Joint Negotiating Committee will be possible.

3.5 In accordance with normal practice, it will be open to the Management Side to seek advice from the Education Committee before concluding negotiations.

Similarly, it will be open to the Unions to seek advice from their own national organisations.

- 3.6** It will be necessary for the Council to determine members and the system for substitution of members of the Joint Negotiating Committee. These members may be Members of the Council or officers of the Council, including headteachers. It is suggested that the Authority Side should be composed of:
- Four Elected Members drawn from the Education Committee
 - The Director of Educational and Social Services,
 - The Head of Schools
 - Three nominees of the Director of Educational and Social Services who will be either head teachers or senior officers of the Department.

It will be open to the Management Side to nominate appropriate substitutes for the above structure. This will be done in consultation between the Chair of the Education Committee and the Director of Educational and Social Services.

- 3.7** It will be necessary also for the Council to appoint a Secretary to the Management Side. Given the nature of this role it is suggested that this task should be allocated to the Head of Schools as being consistent with this officer's remit for teachers' personnel matters, or according to changing circumstances an officer nominated by the Director of Educational and Social Services.
- 3.8** In order to achieve agreement within the East Ayrshire Council Joint Negotiating Committee it will necessary for both sides to agree any given proposal.
- 3.9** The draft Agreement has been discussed with the unions, however, it requires approval also by each of the trade unions to be recognised and, thereafter, signature on behalf of the Council and of all of the participating trade unions.

4. SUMMARY OF ACTION

- 4.1** If this report is approved, the relevant trades unions will require to be notified by the Director of Educational and Social Services who will invite them to similarly recognise the terms of the draft Agreement.
- 4.2** It would be appropriate for Committee to authorise the Director of Educational and Social Services to sign the Agreement on behalf of the Council.
- 4.3** Following the signing of the Agreement and the establishment of the East Ayrshire Council Joint Negotiating Committee for Teaching Staff it is appropriate that the JCC (Teachers) should cease to exist. The work of the JCC (Teachers) will be overtaken as part of the business of the new Local Negotiating Committee. However, there has been much profitable and constructive discussion in the informal Joint Consultative Committee for teachers. It is proposed that this group will continue as present. This is composed of local

association secretaries of the EIS, SSTA, NASUWT and PAT together with representatives of management from the Authority. Recently, this group has been joined by an office bearer from HAS and AHTS respectively. It is proposed that this group should continue. One of its main functions would be to consult on matters that would be considered by the Local Negotiating Committee. Discussions at this Informal Local Negotiating Committee would be aimed at bringing proposals to a highly developed point for final consideration by the formal Local Negotiating Committee.

5. POLICY/LEGAL IMPLICATIONS

- 5.1** The decisions reached in the Local Negotiating Committee will be binding on both the Council and the Trades Unions. It will therefore be necessary to amend the Scheme of Delegation to reflect this.
- 5.2** Minutes of the Local Negotiating Committee will be presented to the Education Committee for noting.

6. FINANCIAL IMPLICATIONS

- 6.1** A number of devolved matters will have significant financial implications for the Council. These will be decided in the Local Negotiating Committee

7. RECOMMENDATIONS

- 7.1** It is recommended that the Education Committee:
- (i) approve these proposals for the establishment of a local framework recognition and procedure Agreement;
 - (ii) to recommend to Council to agree the proposals described in paragraph 3.6 for the membership of the Management side of the East Ayrshire Council Joint Negotiating Committee;
 - (iii) agree the appointment of the nominee of the Director of Educational and Social Services as the Management side Joint Secretary;
 - (iv) to recommend to Council to delegate to the Director of Educational and Social Services power to determine on behalf of the Council and to implement all matters within the terms of reference of the East Ayrshire Council Joint Negotiating Committee;
 - (v) authorise the Director of Educational and Social Services to advise all relevant unions of the Agreement, by the Education Committee, to the terms of the attached Agreement and to invite the relevant unions to similarly agree;
 - (vi) to recommend to Council to authorise the Director of Educational and Social Services to sign a Local Recognition and Procedure Agreement in terms of the attached draft;

- (vii) agree that on the signing of the Agreement and the establishment of the East Ayrshire Council Joint Negotiating Committee for Teaching Staff, the Joint Consultative Committee (Teachers) should cease to exist;
- (viii) note that the terms of this report, if accepted, will require amendments to the Council's Scheme of Delegation; and
- (ix) otherwise note the contents of this report.

John Mulgrew
Director of Educational and Social Services

GRS/GRS
23 December 2001

Members requiring further information should contact Graham Short, Head of Schools, (01563-576089).

LIST OF BACKGROUND PAPERS

1. Ref to paper establishing JCC
2. A Teaching Profession for the 21st Century

Implementation Officer: Graham Short

Framework Local Recognition and Procedure Agreement
between East Ayrshire Council
and The Educational Institute of Scotland
and The Scottish Secondary Teachers' Association and
The Professional Association of Teachers,
The National Association of School Masters Union of Women Teachers,
Headteachers Association of Scotland and the
Association of Headteachers in Scotland.

1. The East Ayrshire Council hereby recognises The EIS, SSTA, PAT, NAS/UWT, HAS and AHTS as the sole representatives of the teaching staff, music instructors, advisers and educational psychologists employed by the Council on all matters relating to conditions of service as defined in paragraph 3 of this recognition and procedure agreement and other matters not subject to national bargaining.

2. The Council and the recognised unions jointly affirm their commitment to the maintenance of good industrial relations and accept that this Recognition and Procedure Agreement and any formal agreements which arise from it will be binding on the signatory parties.

3. All agreements, orders, settlements and determinations of the Scottish Negotiating Committee for Teaching Staff in School Education dealing with:
 - cover agreements
 - appointment procedures
 - particulars of employment
 - expenses of candidates for appointment
 - transfer of temporary teachers to permanent staff
 - promotion procedures
 - staff development arrangements
 - specific duties and job remits
 - arrangements for school based consultation
 - other leave and absence arrangements
 - notice periods
 - housing
 - indemnification procedures
 - other allowances
 - discipline and grievance procedures

shall be adopted as the base for negotiations under the procedures established by this Recognition and Procedure Agreement.

4. The purpose of this Recognition and Procedure Agreement is to establish bargaining machinery and a negotiating procedure between the Council and the signatory unions whereby relevant conditions of service can be determined for all teaching staff, music instructors, educational advisors and educational psychologists.

5. The Council hereby recognises the unions who are signatories to this Recognition and Procedure Agreement as the sole bargaining agents for the matters covered by this Recognition and Procedures Agreement.
6. The Council will negotiate through a Management Side appointed by itself. The recognised unions will negotiate through a joint union side appointed by them collectively which will reflect, on a pro-rata basis, the respective membership strengths of each organisation. The Management Side and the Joint Union Side will each appoint a secretary for their respective sides.
7. Negotiations between the two sides shall be conducted within a committee to be known as the East Ayrshire Council Joint Negotiating Committee for Teaching Staff. Meetings of the Committee shall be held as and when requested by either side with the proviso that there will be at least three meetings in each calendar year. One of the meetings shall be designated the Annual General Meeting for the purpose of approving the membership of the JNC and reviewing any standing sub-committees. The joint secretaries shall be responsible for making the arrangements for meetings which shall be arranged within 10 working days of a request being lodged, or otherwise by mutual agreement.
8. The composition of each side of the Committee shall be determined by the sides separately, but shall not exceed nine members on each side. The Committee may, from time to time, appoint from among its own members a sub-committee or sub-committees to discharge such of the functions of the Committee as the Committee may specify.
9. The quorum for a meeting of the Committee shall be four from the Management Side and four from the Joint Union Side. In the case of a sub-committee, the quorum shall be determined by the Committee when the sub-committee is first established.
10. Agreements reached by the Committee shall be binding on the Council and the signatory unions and each of the parties hereto hereby confirm that they have the authority to bind the party on whose behalf they sign in terms of this Recognition and Procedure Agreement.
11. Agreements reached between the two sides shall be set out in a text jointly approved by the two sides and the text will be subscribed by the joint secretaries. All local agreements shall be reported to the SNCT.
12. The joint secretaries will be available to advise their respective sides on matters relating to agreements reached by the Committee. In formulating such advice the joint secretaries may consult with each other whenever they think it appropriate.
13. This Recognition and Procedure Agreement shall take effect as soon as it has been signed on behalf of the Council and on behalf of the Teachers' Side.
14. No variation to this Recognition and Procedure Agreement may be made except with the consent of the Sides to this agreement.

15. The Council hereby agrees to ensure that adequate paid time off work shall be granted to all union representatives on the Joint Negotiating Committee and that particular consideration shall be given to the amount of paid time off work required by the person appointed as union side joint secretary, as well as the necessary facilities covered by ACAS Code of Practice No.3.
16. The signatory parties to this Recognition and Procedure Agreement acknowledge the importance of establishing and maintaining confidence in the negotiating arrangements established under this Agreement and recognise the need to negotiate in good faith.
17. In the event of any dispute being declared between the two sides or where there is a failure to agree at school level on any relevant matter, the Council and the signatory unions should seek to resolve the matter, without delay through discussion in the Committee. The Council further agrees not to implement any change which is the subject of dispute until the matter has been considered by the Committee. The signatory unions, likewise, further agree not to implement any form of industrial action unless and until the Committee has failed to achieve a resolution of the matter in dispute.
18. Where agreement between the two sides of the local negotiating committee is not possible, either side may refer the failure to agree to the Joint Chairs of the SNCT for conciliation. If the conciliation is unsuccessful the Joint Chairs of the SNCT may recommend further procedures for resolution of the difference, including external conciliation, mediation or binding arbitration.

Signed on behalf of the Council

Name

Designation

Date

Signed on behalf of the Educational Institute of Scotland

Name

Designation

Date

Signed on behalf of the Scottish Secondary Teachers' Association

Name

Designation

Date

Signed on behalf of the Professional Association of Teachers

Name

Designation

Date

Signed on behalf of the National Association of Schoolmasters Union of Women Teachers

Name

Designation

Date

Signed on behalf of the Headteachers Association of Scotland

Name

Designation

Date

Signed on behalf of the Association of Head Teachers in Scotland

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Designation

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AGENDA