

REPORT OF THE HEAD OF PAID SERVICE

JOINT STAFF CONSULTATIVE FORUM – 16 JUNE 2010
GENERAL PURPOSES COMMITTEE – 21 JUNE 2010

COLLECTIVE AGREEMENT – TRADE UNION RECOGNITION AND PROCEDURE AGREEMENT BETWEEN DOVER DISTRICT COUNCIL AND UNISON [AND GMB]

Recommendation

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| <ol style="list-style-type: none">1. <i>That the General Purposes Committee approve the adoption of the Collective Agreement at Appendix 1; and</i>2. <i>That the Chief Executive, as Head of Paid Service is authorised to sign the Collective Agreement at Appendix 1.</i> |
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Background

1. The current recognition agreement between Dover District Council and the two recognised trade unions, UNISON and GMB, has been in existence since 1994 with a number of minor revisions over the years, the most significant of which being the formalisation of a Consultation process in 1997. Further revision of the Consultation process was made in 2002, but again in a modest way. These agreements and processes remain in place.
2. It was acknowledged in 1994 that the agreement had been in force for a number of years and was out of date and indeed it recognises a number of unions who are no longer represented at the Council, or have been amalgamated into the two unions who have maintained representation into the Council. The historic recognition of UNISON and GMB, and the scope of recognition, is reflected in the constitution of the Joint Staff Consultative Forum, the functions of which include the function of acting as a medium for negotiations between the Council and its Officers.
3. However, whilst the written agreement itself deals with facilities rights and representational rights (levels 1 and 2 of recognition) and alludes to negotiation rights, these rights do not appear to be conferred by the agreement itself.
4. This is further born out by the fact that individual contracts of employment do not state that the Council recognises trade unions for the purposes of collective bargaining.
5. The Consultation Process states that "*for the purposes of this process, 'change' is taken to indicate substantial amendment to conditions of service, or working methods, which require formal approval ahead of implementation.*"
6. In the instance of the Council's recent removal of PMI and implementation of a new job evaluation scheme, the Council has followed the approach of recognising consultation rights (level 3), but not negotiating rights (level 4). Whilst the Council therefore, does not require the agreement of the unions to implement changes to grading structures, contractual terms & conditions, policies etc, the absence of a

collective bargaining agreement does mean that individual consent is required for implementing contractual changes.

7. Therefore, although DDC currently has a recognition agreement in place, the agreement does not go as far as giving the Unions negotiating and consultation powers on a collective basis.

Collective Bargaining

8. Collective bargaining means negotiations between an employer and appropriate representatives of the employees which are related to or connected with the following matters: terms and conditions of employment; physical working conditions; hiring; firing and suspension; discipline; union membership and union facilities, recognition and procedures.

Reasons why a decision is required

9. Section 188 of the Trade Union and Labour Relations Consolidation Act 1992, places a duty on public authorities to collectively consult, where it is proposing to change its terms and conditions of employment and/or contemplating dismissing as redundant more than 20 employees. The Act defines "redundancy" for collective consultation purposes as a dismissal "not connected with the individual worker concerned". This type of redundancy and the procedures required is different from statutory redundancy under the Employment Relations Act 1996.
10. The statutory consultation requirement relating to redundancy is that all affected employees must be properly consulted using the recognised trade union representation. The requirement to consult extends to employees who are indirectly affected as well as those directly affected by the proposed changes.
11. Whilst, the Council's main aim and objective is to ensure as far as possible a stable working environment and security for its employees, the implications of the Council's current proposal of a revised employment stability policy could be that the terms and conditions of employment of members of staff could be significantly altered and there is a possibility that more than 20 members of staff could be affected by redundancy.
12. Furthermore, in light of the shared services agenda and increased partnership working, UNISON has expressed an interest in developing a joint branch executive between the four Councils of the East Kent Cluster.
13. In excess of 66% of staff at Thanet District Council are members of one of their recognised trade unions, UNISON and GMB. Over fifty percent of Dover's workforce are members of UNISON, with a small representation from GMB. Canterbury and Shepway are understood to have similar numbers of members.
14. Management supports collective bargaining for its employees to ensure that they are treated equitably with colleagues within the Cluster and to improve and streamline the consultation and negotiation process. Currently, collective bargaining is practiced at Canterbury City Council and Shepway and Thanet District Councils, which would mean that Dover District Council would have to continue to consult and negotiate individually. The reality here being that as the shared services agenda moves forward, the scenario may arise where there are two bodies of employees under the same management who have very different recognition rights. The Council could therefore be challenged that this placed its own employees at a disadvantage.

15. The purpose of the Collective Agreement is therefore to establish local consultative and negotiating arrangements for all categories of staff within DDC. This Agreement shall be the sole basis for negotiation, consultation and representation for staff. The adoption of the Collective Agreement is recognised as a change to the terms and conditions of this Council and as such needs to be properly authorised by the Council or a committee of the Council with delegated responsibility.

Options available to the Council with assessment of preferred option

16. Option 1: To approve the adoption of the collective agreement and that the Chief Executive, as the Head of Paid Service signs the agreement, which is then to be managed through the Joint Staff Consultative Forum. To also approve consultation with members of staff on the variation of contract which adoption of the collective agreement would entail. This is the recommended approach as both management and the recognised trade unions are agreement to adopt this approach.
17. Option 2: Not to approve the adoption of the collective agreement. This is not the preferred option. If not adopted, members of staff will continue to be consulted individually on any proposed future changes to terms and conditions and may therefore have different recognition rights to those of their colleagues at the partner authorities.

Information to be considered in taking the decision

18. This Agreement seeks to establish the basis on which DDC recognises the staff Trade Unions, and provides for the establishment of arrangements to govern its future relationship with those Trade Unions. This Agreement seeks to foster the best possible relations between DDC, its employees and the Trade Unions and to provide a mutually understood method of discussion, consultation and negotiation, through the maintenance and development of effective joint negotiating and consultative machinery.
19. DDC and the Trade Unions agree that in order to maintain good relationships, issues should be discussed without undue delay and be resolved at the earliest stage through constructive collective bargaining. To this end, there will be the minimum of delay where possible in arranging meetings between DDC and the recognised Unions.
20. Negotiation is the process of discussion between DDC and the Unions with a view to reaching agreement and avoiding disputes. Consultation is the process by which management and the Unions consider and discuss issues of mutual concern. It involves seeking solutions to problems through a genuine exchange of views and information. The Joint Staff Consultative Forum (JSCF) will provide the structure for negotiation and for settlement of pay and conditions of service.
21. The purpose of the JSCF will be to negotiate on matters, which are incorporated into the contract of employment, including the defined procedures of the Conditions of Service and to engage in consultation on issues that either side wishes to raise. Items for discussion will be identified in the JSCF agenda and may well include some of the following:
- Health and Safety
 - Disciplinary and grievance procedures
 - Procedures and policies affecting employment and pay

- Procedures and policies relevant to gender, race, disability and other equality related matters
- Interpretation of HR policies and procedures
- Redundancy avoidance (where possible) and redundancy selection criteria (where avoidance is not possible)
- Restructurings
- Disclosure of information as defined in Sections 181-185 of the Trade Union and Labour Relations (Consolidation) Act 1992
- Implementation of pay and conditions of employment as a result of legal changes
- Revisions to the recognition procedure and facilities.

22. In establishing a collective bargaining agreement for the purposes of recognition, consultation and negotiation, the Council will need to seek agreement from its employees to vary the contract of employment to this effect. The Council will therefore need to consult individually on this proposed change.

Background Papers

None

Resource Implications

Requirement from Current Budget	Requirement for Additional Budget	
	Current Year	Full Year
No additional resource implications, if adopted it offers potential savings through a smoother more formalised consultative process.	Nil	Nil

Impact on Corporate Objectives and Corporate Risks

Formal collective bargaining, will aim to maintain an informed and motivated workforce focused on assisting the Council in achieving its objectives.

Consultation

The recognised Trade Unions have been fully consulted and involved in developing this agreement.

Attachments

- Appendix 1 – Trade Union recognition and procedure agreement.
- Appendix 2 – Extract from the Constitution Part 3 Section 7: Consultative Committees And Advisory Boards - Joint Staff Consultative Forum

NADEEM AZIZ

Head of Paid Service