

**REPORT TO: DUNDEE CITY COUNCIL EDUCATION COMMITTEE – 16 JUNE 2003**

**REPORT ON: LOCAL NEGOTIATING COMMITTEE FOR TEACHERS**

**REPORT BY: DIRECTOR OF EDUCATION**

**REPORT NO: 57-2003**

## **1.0 PURPOSE OF REPORT**

**1.1** This report seeks approval of a Local Recognition and Procedure Agreement between the Council and representatives of teaching staff employed by the Council and the establishment of a local joint negotiating committee for teaching staff.

## **2.0 RECOMMENDATIONS**

**2.1** It is recommended that the Committee:-

- i. approve the terms of the attached draft Local Recognition and Procedure Agreement, (Appendix A);
- ii. instruct the Director of Education to advise all relevant teacher unions of the agreement, by the Council, to the terms of the attached draft Agreement and to invite the relevant unions to similarly agree;
- iii. authorise the Director of Education to sign a Local Recognition and Procedure Agreement in terms of the attached draft;
- iv. instruct the Director of Education to establish a local joint negotiating committee for teaching staff in accord with the terms of the agreed Local Recognition and Procedure Agreement;
- v. to note that agreements reached by the Committee shall be binding on both parties at the point of signature to the agreement and that the signatories for the Management Side shall be the Director of Education or the Chief Executive; and
- vi. remit to the Director of Support Service to make appropriate changes to the Scheme of Delegation to Officers.

## **3.0 FINANCIAL IMPLICATIONS**

**3.1** There are no financial implications arising directly from this report.

## **4.0 LOCAL AGENDA 21 IMPLICATIONS**

**4.1** None

## **5.0 EQUAL OPPORTUNITIES IMPLICATIONS**

**5.1** None

## **6.0 BACKGROUND**

**6.1** The Agreement reached following recommendations contained in the report “A Teaching Profession for the 21<sup>st</sup> Century” (The McCrone Report) stipulated that in addition to the Scottish Negotiating Committee for Teachers (SNCT) there will be 32 local negotiating committees established. These local negotiating committees will have the powers to negotiate certain devolved conditions of service agreements and to reach agreement on a range of matters not subject to national bargaining. A list of matters which are defined as National Matters and those which are defined as Devolved Matters are contained in letter SNCT/8 (Appendix B). Letter SNCT/8 also contains a model framework Local Recognition and Procedure Agreement for use when setting up the local negotiating committee.

**6.2** Further to letter SNCT/8, a letter has been received from COSLA (Appendix C), drawing attention to paragraph 10 of the model framework Local Recognition and Procedure Agreement. This states that:

“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.”

COSLA point out that this paragraph could place a Council in breach of its legal responsibilities in terms the Local Government (Scotland) Act 1973 which prevents councils from delegating powers, particularly involving financial implications, to other bodies.

**6.3** The Council's Director of Support Services has also indicated that it would not be lawful for Councils to delegate decision-making to a body such as the local negotiating committee but that it would be permissible for a local negotiating committee to be established which would have power to make recommendations to the Education Committee. Where the subject matter of negotiations has been delegated to the Director of Education she can agree the matter without the need to refer it to the Education Committee.

**6.4** A further letter was issued by COSLA (Appendix D) indicating that a number of councils have overcome the difficulty in the wording of paragraph 10 by reaching joint agreement to revise this wording to read; “Agreements reached by the Committee shall be binding on the Council and the signatory unions where these agreements are within the delegate powers of the Director of Education Services, otherwise these agreements will require to be referred to the appropriate Committee of the Council for approval.” Agreement is sought to delegate authority to the Chief Executive and the Director of Education in respect of any proposals which are not covered by the existing delegated authority. This extended authority would be exercised after consulting with the Convener and Majority and Minority Education spokespersons.

## **7.0 CONCLUSION**

**7.1** In order to reach a position which most reflects the spirit of the agreement it is proposed that agreements shall be binding on both parties at the point of signature to the agreement. The signatories for the Management Side to be

the Director of Education or the Chief Executive. This will enable maximum use to be made of Officers delegated powers in reaching binding agreements.

**7.2** It is the view of the Director of Education that The Framework Local Recognition and Procedure Agreement provided with the aforementioned letter SNCT/8 as amended is the most practical option for delivering the spirit of the agreement and therefore it is submitted for approval (Appendix A).

## **8.0 CONSULTATION**

**8.1** This report has been the subject of consultation with the teacher unions, Head Teachers and the Director of Support Services.

## **9.0 BACKGROUND PAPERS**

**9.1** 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.

Anne Wilson  
Director of Education  
3 June 2003

AW/AHW/DD

**Draft Local Recognition and Procedure Agreement**

between Dundee City 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,  
Head Teachers Association of Scotland and  
the Association of Head Teachers in Scotland.

1. Dundee City Council hereby recognises the EIS, SSTA, PAT, NAS/UWT, HAS and AHTS as the sole representative of the teaching staff, music instructors, quality improvement officers 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 Joint 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 period
  - housing
  - indemnification procedures
  - other allowances
  - discipline and grievance proceduresshall 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 signatory unions whereby relevant conditions of service can be determined for all teaching staff, music instructors, quality improvement officers 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 Procedure 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 Dundee City 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 one meeting 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 4 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 6 members of 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 4 from the Management Side and 4 from the Joint Union Side.
10. Agreements reached by the Committee shall be binding on the Council and the signatory unions at the point of signature to the agreement. Signatories for the Management Side shall be the Director of the Education or the Chief Executive. 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. (Such agreements when agreed *in writing* shall be known as "local agreement"). 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.

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.

17. 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 arbitration.

**Signed on behalf of the Council:**

**Name:** \_\_\_\_\_

**Designation:** \_\_\_\_\_

**Date:** \_\_\_\_\_

**Signed on behalf of the Teachers' Side**

**Name:** \_\_\_\_\_

**Designation:** \_\_\_\_\_

**Date:** \_\_\_\_\_

# Scottish Negotiating Committee for Teachers

COSLA  
Rosebery House  
9 Haymarket Terrace  
Edinburgh  
EH12 5XZ  
Tel: 0131 474 9200  
Fax: 0131 474 9292  
Email: dan@cosla.gov.uk

Teachers' Panel  
46 Moray Place  
Edinburgh  
EH3 6BH  
Tel: 0131 225 6244  
Fax: 0131 220 3151  
Email: kwimbor@eis.org.uk

Scottish Executive  
Education Department  
Teachers & Schools Division  
2-A North  
Victoria Quay  
Edinburgh  
EH6 6QQ  
Tel: 0131 244 0230  
Fax: 0131 244 0957  
Email: john.swift@scotland.gsi.gov.uk

6 September 2001

Dear Colleague

## SNCT/8 LOCAL FRAMEWORK RECOGNITION AND PROCEDURE AGREEMENT

- 1 The Agreement reached following recommendations made in the McCrone Report stipulated that in addition to the new national negotiating body there would be 32 local negotiating committees established. These Committees will have the powers to vary certain devolved conditions of service agreements and to reach agreement on a range of matters not subject to national bargaining. Existing national agreements will be defined as either national matters or devolved matters. National matters remain to be negotiated nationally while devolved matters can be varied by agreement locally. All local agreements must be reported to the SNCT for information.
- 2 National and devolved matters are defined as follows:

National Matters	Devolved matters
Pay (including related allowances)	Other allowances
The working week and working year	Cover agreements
Annual leave entitlement	Appointment procedures
Class size	Particulars of employment
Sick leave	Expenses of candidates for appointment
Maternity/family leave	Transfer of temporary teachers to permanent staff
National and local recognition procedures	Promotion procedures
Disciplinary and grievance framework	Staff development arrangements
Main duties	Specific duties and job remits
Staff development framework	Arrangements for school based consultation
	Other leave and absence arrangements
	Notice periods
	Housing
	Indemnification procedures
	Disciplinary and grievance procedures

3/

3. Attached as an appendix is a model framework Local Recognition and Procedure Agreement for your information. This framework should not be regarded as pre-empting the outcome of recommendations from the SNCT working parties which have been established and which are due to report to the Committee throughout the course of 2001 and early 2002.

Yours sincerely

Oonagh Aitken (Employers' Side)  
Ken Wimbor (Teachers' Panel)  
John Swift (Scottish Executive)

**Joint Secretaries**

To: Chief Executives  
Directors of Education  
Directors of Personnel

Copy: Directors of Finance



**Framework Local Recognition and Procedure Agreement  
between ..... 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 \_\_\_\_\_ 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 advisers 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 Procedure 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 \_\_\_\_\_ \* 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 \_\_\_\_\_ \* 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 \_\_\_\_\_ \* 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 \_\_\_\_\_ \* members of 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 \_\_\_\_\_ \* from the Management Side and \_\_\_\_\_ \* 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.

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.

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

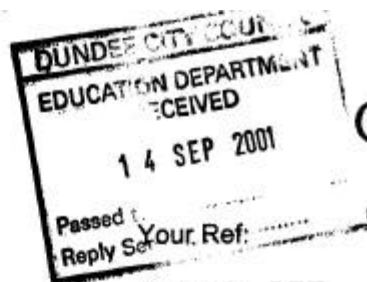
Signed on behalf of the Teachers' Side

Name

Designation

Date

\* To be completed as agreed by the Management Side and the Joint Union Side.



11 September 2001

To: Chief Executives  
Directors of Education  
Directors of Personnel

Our Ref: PE/7

Dear Colleague

**CIRCULAR SNCT/8**

You will have received a circular from the Scottish Negotiating Committee regarding the establishment of local negotiating committees.

would draw your attention to paragraph 10 of the Appendix to SNCT/8 which states:

"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."

It was brought to the attention of the Committee before the circular was agreed that concerns had been expressed that paragraph 10 as worded in the circular could place a council in breach of its legal responsibilities under the terms of Section 10 of the Local Government (Scotland) Act 1973, which prevents councils from delegating powers, particularly involving financial implications, to other bodies.

If a council decides to appoint elected members to represent the council on the local negotiating committee and if these elected members have delegated powers to reach decisions then paragraph 10 may be acceptable as it stands. However, if the council nominate officers to represent the council in discussions at local level, then obviously an appropriate committee of the council will need to approve the decisions reached in this local negotiating committee by the officer representatives on behalf of the council, in order for agreements to be binding on the council.

I indicated to the teachers' representatives that I would be writing to councils pointing out the difficulties that might be faced in a strict interpretation of paragraph 10.

Yours sincerely

Dan Brown  
Director of Organisational Development

WHEN CALLING PLEASE ASK FOR: Dan Brown (0131-474-9270) [dan@cosla.gov.uk](mailto:dan@cosla.gov.uk)

sbw-01-9-11-1tm 4  
DFB

COSLA, Rosebery House, 9 Haymarket Terrace, Edinburgh EH12 5XZ  
Telephone 0131 474 9200 Fax 0131 474 9292 Internet [www.cosla.gov.uk](http://www.cosla.gov.uk)



14 November 2002

Your Ref:

To: Directors of Education

Our Ref: PE/7/21

c.c. Directors of Personnel

Dear Director

### SNCT/8

As you are aware Circular SNCT/8 dealt with the establishment of local negotiating committees to discuss devolved matters relating to teachers' pay and conditions of service. There have been two particular difficulties in relation to the implementation of the agreement on the establishment of local negotiating committees. The first relates to the interpretation of paragraph 10 in the Appendix to the circular which states that:

"Agreements reached by the Committee shall be binding on the Council and the signatory unions and each of the parties hereby confirm that they have the authority to bind the party on whose behalf they sign in terms of the Recognition and Procedure Agreement."

I wrote to councils following the issue of the circular saying that the wording in this paragraph was a cause for concern in that it could place a council in breach of its legal responsibilities under the terms of Section 10 of the Local Government (Scotland) Act 1973 which prevent councils from delegating powers, particularly involving financial implications, to other bodies.

A number of councils have overcome the difficulty in the wording of paragraph 10 by reaching joint agreement to revise this wording to read, for example, as follows:

"Agreements reached by the Committee shall be binding on the Council and the signatory unions where these agreements are within the delegated powers of the Director of Education Services, otherwise these agreements will require to be referred to the appropriate Committee of the Council for approval."

The other difficulty that has been encountered in the establishment of local negotiating committees relates to membership of the Teachers' Side of this body. In some cases the Teaching Unions cannot agree on who should be on the Teachers' Side and therefore the local negotiating body has not been able to be formally constituted.

I would be grateful if you could provide responses to the following questions in order that a report can be given to the Employers Side of the SNCT.

WHEN CALLING PLEASE ASK FOR: Dan Brown 0131 474 9270 dan@cosla.gov.uk

sbw-02-11-14-1TM 5  
DFB

COSLA, Rosebery House, 9 Haymarket Terrace, Edinburgh EH12 5XZ  
Telephone 0131 474 9200 Fax 0131 474 9292 Internet www.cosla.gov.uk