

# **CLACKMANNANSHIRE COUNCIL**

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**Report to Council of 10 April 2002**

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**Subject: Teachers' Conditions of Service: Local Recognition and Procedure Agreement**

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**Prepared by: Legal Services and Human Resources**

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## **1.0 SUMMARY**

- 1.1. This report invites the Council to approve a Local Recognition and Procedure Agreement with regard to employees of the Council who are subject to teachers conditions of service and makes ancillary proposals.

## **2.0 BACKGROUND**

- 2.1 Following the publication of the report of the McCrone Inquiry into professional conditions of service for teachers, an Implementation Group was established by the Scottish Executive following a series of meetings with the teaching unions and COSLA. The remit of the Implementation Group included a requirement to examine those recommendations in the McCrone Report which require formal negotiations and to consider detailed proposals for implementing those recommendations.
- 2.2 The agreement reached by the Implementation Group included provisions for future negotiating machinery including both national arrangements and local negotiations. With regard to local negotiations, the Implementation Group agreed that there be local negotiating committees for teachers with powers to vary certain devolved conditions of service agreements and to reach agreement on a range of matters not subject to national bargaining. It is, accordingly, necessary that there be concluded a Local Recognition and Procedure Agreement for Clackmannanshire Council.
- 2.3 The Implementation Group devised, also, a skeleton Local Recognition and Procedure Agreement. From that skeleton, a draft Agreement for Clackmannanshire Council has been produced and is attached as the appendix to this report. It has been submitted to the Joint Consultative Committee for Teaching Staff who recommend approval of the Agreement by Council and the relevant trade unions.
- 2.4 The agreement on "A Teaching Profession for the 21<sup>st</sup> Century" requires that councils recognise all teaching unions for the matters covered by local negotiating committees. Within Clackmannanshire, not all of these organisations meet the criteria for recognition under the council's Formal Trade Union Recognition Agreement. An exception will therefore require to be made to this agreement for the matters covered by the local negotiation
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committee. While it is for the unions to decide their representation, they have indicated that they will elect their members via a Teachers' Panel on which all organisations will have one representative plus an additional seat for every complete group of 100 accredited members employed in the authority.

### **3.0 CONSIDERATIONS**

#### **3.1. In summary, the draft Agreement**

- provides for the recognition, by the Council, of the signatory unions as the sole representatives of the relevant staff on all matters relating 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 a Clackmannanshire Council Joint Negotiating Committee for Teaching Staff;
- makes provision for the membership of that Committee being six persons appointed by the management side and six persons appointed by the joint union side with the management side and the joint unions side each appointing a Joint Secretary;
- makes provision for the quorum, chairing and procedures for the Joint Negotiating Committee, including specific provision that a matter shall be agreed by the Committee only if approved by a quorum of both sides.
- makes provision for substitute members;
- expressly stipulates that agreements reached by the Clackmannanshire Council Joint Negotiating Committee shall be binding on Clackmannanshire Council and the signatory unions.

3.2 The Clackmannanshire Joint Negotiating Committee will not be a committee of the Council. It will, accordingly, not have the power to take a decision on behalf of the Council. If the Council accept the terms of the attached draft Agreement, in order to implement the provision that agreements reached by the Joint Negotiating Committee shall be binding on the Council, it is recommended that the Council delegate to the Director of Services to People power to determine on behalf of the Council and implement any matter within the terms of reference of the Clackmannanshire Joint Negotiating Committee. Such delegation would be exercised within the Council Standing Orders and Scheme of Delegation.

3.3 It is recommended that Council members of the Committee should be drawn from management and include, among the Council's members on the Committee, the Director of Services to People, the Head of Education and Lifelong Learning and the Head of Human Resources or their representative.

### **4.0 PROPOSAL**

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- 4.1. The terms of the draft Agreement provide an effective means for settling local disputes and for local negotiations of a range of conditions of service and it is proposed that it would be appropriate that the Council approve its terms.
- 4.2. If the Council approves the terms of the attached draft Agreement, it is proposed that the Director of Services to People identify the Council's members on the Joint Committee and the joint secretary for the management side.
- 4.3. It is proposed, also, that the Council authorise the Director of Services to People to advise the relevant unions of the Council's agreement and invite them to similarly agree to the terms of the draft Agreement.
- 4.4. It would be appropriate, also, that the Council authorise the Director of Services to People to sign the Agreement on behalf of the Council.
- 4.5. The Convener and Vice Convener of the Learning and Leisure Committee will be made aware by the Director of Services to People, or representative, of any major issues under consideration by the Local Negotiating Committee for Teachers.

## **5. RECOMMENDATION**

- 5.1 It is recommended that the Council:
    - (a) approve the terms of the attached draft Local Recognition and Procedure Agreement;
    - (b) delegate to the Director of Services to People the appointment of the Council's members and substitute members of the Clackmannanshire Joint Negotiating Committee, in addition to those proposed in paragraph 3.3;
    - (c) delegate to the Director of Services to People power to determine on behalf of the Council and to implement all matters within the terms of reference of the Clackmannanshire Joint Negotiating Committee which have been agreed by that Committee;
    - (d) authorise the Director of Services to People to advise all relevant unions of the agreement, by the Council, to the terms of the attached draft Agreement and to invite the relevant unions to similarly agree;
    - (e) authorise the Director of Services to People to sign a Local Recognition and Procedure Agreement in terms of the attached draft; and
  - 5.2 Financial implications: None
  - 5.3 Staff implications: None
  - 5.4 Key values and objectives: Equity and openness
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Director

## **LOCAL RECOGNITION AND PROCEDURE AGREEMENT**

between

**CLACKMANNANSHIRE COUNCIL**

and

**THE EDUCATIONAL INSTITUTE OF SCOTLAND; THE SCOTTISH SECONDARY TEACHERS ASSOCIATION; THE PROFESSIONAL ASSOCIATION OF TEACHERS; THE NATIONAL ASSOCIATION OF SCHOOLMASTERS/UNION OF WOMEN TEACHERS; THE HEAD TEACHERS ASSOCIATION OF SCOTLAND AND THE ASSOCIATION OF HEAD TEACHERS IN SCOTLAND**

1. Clackmannanshire Council hereby recognises The Educational Institute of Scotland, The Scottish Secondary Teachers Association, The Professional Association of Teachers, The National Association of Schoolmasters/Union of Women Teachers, The Head Teachers Association of Scotland and the Association of Head Teachers in Scotland as the sole representatives of the teaching staff, advisers, educational psychologists and music instructors employed by the Council on all matters relating to conditions of service as defined in Paragraph 3 of this Recognition and Procedure.
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 may arise from it, will be binding on all parties.
3. 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, educational advisors, education psychologists and music instructors.

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.

4. All agreements, order, settlements and determinations of the Scottish Negotiating Committee for Teaching Staff in School Education dealing with;
    - Cover agreements
    - Appointment procedures
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- 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 and negotiation
- 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.

5. The Council will negotiate through a management side appointed by itself which will operate within Council Standing Orders and the Scheme of Delegation. 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 of the signatory unions. The management side and the joint union side will each appoint a secretary for their respective sides. The Clerk will be provided by Services to People.
  6. Negotiations between the two sides shall be conducted within a committee to be known as the Clackmannanshire 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 four meetings in each calendar year. One of those meetings shall be designated the Annual General Meeting for the purpose of noting the membership of the Joint Negotiating Committee and reviewing any Standing Sub-Committees. The joint secretaries shall be responsible for making the arrangements for meetings which shall be arranged within twenty one days of a request being lodged, or otherwise by mutual agreement, and for the administration of meetings.
  7. The composition of each side of the Joint Negotiating Committee shall be determined separately by the relevant side but shall not exceed six members of each side (including, in each case, the joint secretary). The joint secretaries shall inform the Clerk, not later than five working days prior to the Annual General Meeting of the Committee, of their members. Each side shall also appoint up to three substitute members and shall decide whether
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that person is entitled to substitute for specified member(s) of the Committee or for any member of the Committee from the relevant side. The attendance of a substitute member shall be notified to the Joint Secretaries at least 14 days prior to the meeting at which they may substitute. The Committee may, from time to time, appoint among its own members, a Sub-Committee or Sub-Committees to discharge such of the functions of the Committee as the Committee may specify.

8. The quorum for a meeting of the Committee shall be three members from the management side and three members 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.
  9. The Chair of the Committee will be on the basis of annual rotation. The Council side will determine the Chair for a period of one-year commencing with the first meeting of the Committee and the Teacher's Side will determine the Vice-Chair for that period. Thereafter, the Chair of the Committee will be by rotation.
  10. A matter shall be agreed by the Committee only if approved by a quorum of both sides. Agreements reached by the Committee shall be binding on the Council and the signatory unions.
  11. A substitute member may attend a meeting of the Committee and participate in reaching decisions only if a member of the Committee for whom the substitute member is entitled to substitute is not present at the meeting. In the event of a substitute member commencing to act in place of a member, for the duration of that meeting that member shall not be entitled to be present.
  12. The Committee shall meet in private but may, by mutual agreement, authorise the presence of a person or persons who are not members of the Committee to act as advisers to assist the Committee in the discharge of its functions. A person present as an adviser shall be entitled to address a meeting only with the specific prior consent of the Committee and shall have no rights to participate in the decision making process.
  13. 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 Scottish Negotiating Committee for Teachers.
  14. 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.
  15. 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.
  16. No variation to this Recognition and Procedure Agreement may be made except with the consent of the parties to this Agreement.
  17. The Council will give paid time off work to all union representatives on the Clackmannanshire Joint Negotiating Committee for attendance at Committee
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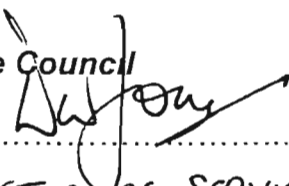
meetings and particular consideration will be given to the amount of paid time off work required by the union side joint secretary as well as the necessary facilities advised by ACAS Code of Practice, Number 3.

18. All parties to this Recognition and Procedure Agreement acknowledge the importance of establishing and maintaining confidence in the negotiating arrangements established under the Agreement and recognise the need to negotiate in good faith.
19. 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 discussions in the Committee. The Council further agrees not to exercise its right 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.
- 21 This agreement will be subject to review at the end of its first year.

**Signed on behalf of the Council**

Name

Designation

  
.....  
DIRECTOR OF SERVICES  
TO PEOPLE

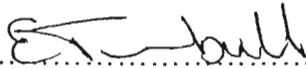
Date

13/6/02

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

Name

Designation

  
.....  
Secretary of The Teachers' Side

Date

13/6/02