

CONSTITUTION FOR TRADE UNION CONSULTATION AND NEGOTIATION

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1. Purpose

- 1.1 To set out a proposed framework for Trade Union consultation and negotiation and a Constitution for Levels 1, 2 and 3 meetings.
- 1.2 To seek Committee approval to adopt the framework and Constitutions with immediate effect.

2. Summary

- 2.1 Milton Keynes Council adopted a framework for Trade Union consultation and negotiation, which had been presented to the Personnel Committee in March 1997.
- 2.2 Formal Constitutions for each of the three levels have been drawn up, following consultation with the Trade Unions.
- 2.3 The framework and Constitutions provide a fair and open method of consultation and negotiation, recognising the need to resolve matters, where possible, at the lowest level and to provide effective representation from both the Staff and Employer side.

3. Recommendations

- 3.1 That the framework and Constitutions for consultation and negotiation at Levels 1, 2 and 3 be adopted, with immediate effect.
- 3.2 That the Employer Side membership of the Joint Negotiating Committee (Level 3) be determined.

4. **Background**

- 4.1 A framework for Trade Union Consultation for Milton Keynes Council was formally adopted by the Personnel Committee on 25 March 1997.
- 4.2 The framework set out a three tiered approach to formal consultation and terms of reference for meetings at each of the three levels. The framework did not include a formal Constitution.
- 4.3 At the Joint Negotiating Meeting on 8 March 1999, a draft Constitution for the Joint Negotiating Committee was considered and it was noted that the Constitution and Terms of Reference should be used as a 'steer' on the calling of meetings until the comprehensive Constitution had been formally approved by Committee.
- 4.4 The proposed Constitutions for each of the three levels, **Annexed** to the report, are based on the framework adopted in March 1997 and have been subject to consultation with the Staff Side.

5. **Issues and Choices**

5.1 Framework

- (a) The framework contains a three tiered approach to formal consultation and negotiation.
- (b) The intention is to promote greater focus on specific matters relating to Directorates, whilst allowing Council wide issues to be properly considered.
- (c) The framework promotes a sound framework for consultation and negotiation which does not detract from the Council's final responsibility to take key decisions at Levels 1, 2 and 3.
- (d) At Level 2, the framework provides for two separate Constitutions, one for the Joint Liaison Forum and the other for the Health and Safety Forum. The organisation of two separate meetings in this way, reflects the need for specific health and safety issues of corporate significance to be discussed in the presence of health and safety representatives from the Unions and with advice from officers dealing with health and safety matters.
- (e) At Level 3, the framework provides for a regular method of negotiation between the Council and its employees on pay and conditions in accordance with the National Joint Council (Green Book). It also provides a forum for negotiation where consultations at Levels 1 and 2 have not resulted in resolution. It is recognised that normal consultation with the Trade Unions will continue to take place, outside the Joint Negotiating Committee. In appropriate cases, therefore, many consultative issues will not need to go on to Level 3.

The Staff Side have stated that there should be two separate Constitutions at this Level 3, on the basis that where business relates to negotiation of terms and conditions of staff subject to the Green Book, only those Trade Unions who represent the employees affected should be entitled to be represented at the meeting.

The proposed wording in the one Level 3 Constitution seeks to address this issue by stipulating that representation by the Unions will be restricted to those representing the employees affected, when business relates to negotiation of terms and conditions. In practice, this will mean that certain representatives may need to withdraw from the meeting if the business covers both matters of corporate significance and negotiation of terms and conditions. The approach to a single Constitution should facilitate the organisation of meetings, whilst respecting that representation may need to be different according to the issues under negotiation.

- (f) The Trade Union Liaison meeting, which enables UNISON and MPO representatives to meet with Human Resources at regular intervals, will continue to take place. Similar meetings with other recognised Trade Unions with the agreement of both parties may also take place, providing there is sufficient business.
- (g) The aim of the framework is for employee relations matters to be discussed and resolved at the lowest level possible whilst ensuring that matters that require, or will benefit from, corporate consideration, can be referred on.
- (h) The three Levels which form part of the framework are as follows:

Level One: Directorate Consultative Meetings in each of the four Directorates:

Learning and Development
Neighbourhood Services
Environment
Resources and Chief Executive

Level Two: Joint Liaison Forum

Health and Safety Forum

Level Three: Joint Negotiating Committee

5.2 Representation

The proposed Constitution sets out the following criteria for representation:

At Level 1, representation by the Staff Side will normally extend to all shop stewards and Trade Union representatives in the Directorate, as is current practice.

At Level 2, representation by the Staff Side will be on the basis of the maximum number of representatives equating to the total number of Trade Unions recognised by the Council.

At Level 3, representation by the Staff Side will again be on the basis of the maximum number of representatives equating to the total number of Trade Unions recognised by the Council. Where the business of a Level 3 meeting is to negotiate terms and conditions of employment, only those Trade Unions who represent the employees affected will be entitled to be represented at the Committee.

The Staff Side have stated that there should be no maximum set at any of the Levels and that if a maximum is to be considered, this should be eighteen representatives where matters referred affect non Teaching staff, with this maximum increased proportionately where matters affect Teaching staff. It is the view of the Staff Side that this would enable representation to take place on a proportional basis, depending on the numbers of employees represented by each of the Unions.

The maximum limit proposed by the Staff Side may lead to meetings becoming unwieldy and cause operational difficulties, particularly if those Unions with very small memberships in specialist areas take the view that their representatives should all attend. The advice from South East Employers is that whilst there is no obligation to provide proportional representation, there is an obligation to allow each Trade Union recognised by the Council to be represented if they so wish. Therefore the maximum representation proposed at Level 2 and Level 3 is in line with the total number of Trade Unions recognised by the Council.

5.3 Frequency of meetings

At Level 1, the Constitution provides for meetings normally to be held monthly. At Level 2, Health and Safety Forum, meetings will normally be held three times a year. The frequency of the Level 2 Joint Liaison Forum meetings will be determined by the nature and volume of agenda items referred to it. At Level 3, there will be at least two meetings a year.

Subject to the above, the frequency will depend normally on the nature and volume of the items referred. However, Levels 2 and 3 provide for a special meeting to be called on the requisition of not less than 50% of the representatives of either side or two Trade Unions or on the requisition of the Chair or Vice Chair.

In order to avoid delay when matters of corporate significance are being discussed, any such meeting will normally be convened within 28 days of a matter being referred or a requisition being received.

5.4 Terms of Reference

Level 1 meetings provide a forum for consultation on Directorate specific issues affecting individuals or groups within the same Directorate. In order that matters are resolved at the lowest level, they would not be referred to a Level 1 meeting before managers and Heads of Service had attempted a resolution.

Level 2 meetings enable consultation to take place on issues of corporate significance or on issues affecting staff in more than one Directorate. There are two Constitutions at Level 2, the terms of reference for one dealing with health and safety issues, those for the second dealing with other matters of corporate significance.

Level 3 meetings provide a forum for negotiation between the Council and its employees, where consultations at Levels 1 and 2 have not achieved resolution. Level 3 meetings also provide a forum to negotiate terms and conditions of employment for staff subject to the National Joint Council Agreement (Green Book).

Matters may be referred by any Committee, Strategic Director, Head of Human Resources or Trade Union recognised by the Council.

Negotiation may be on matters referred upwards by the Level 2 Joint Liaison Forum or Health and Safety Forum.

Where the issue is one of resources, or budgetary provision, the Joint Negotiating Committee, at Level 3, would need to refer this to the Pay Sub-Committee and/or the Personnel Committee and on to the Policy and Resources Committee.

6. **Implications**

6.1 Environmental

None.

6.2 Equalities

The aim of the Constitutions is to provide a fair method of consultation and negotiation between the Council and its employees, enabling representation by recognised Trade Unions and ensuring a method of discussing and resolving matters at the lowest level before they are referred on.

6.3 Financial

None.

6.4 Legal

Advice from Legal and Corporate Administration has been received in the drawing up of the proposed Constitutions.

6.5 Staff and Accommodation

None.

7. **Conclusions**

7.1 The framework for Trade Union consultation and negotiation, approved in March 1997 is now supported by Constitutions at each of the three Levels. Members are recommended to adopt both framework and Constitutions for implementation with immediate effect.

Background Papers: Framework for Trade Union Consultation - paper to Committee March 1997