

North Lanarkshire Council

Report

Finance & Resources Committee

approval noting

Ref FW/HL

Date 29 May 2019

Trade Union/Stakeholder Consultative Framework

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Executive Summary

Delivery of The Plan for North Lanarkshire will drive significant levels of workforce change within all services across the council, and it is critical that the Council has a strong, healthy working partnership with trade union colleagues and other stakeholders, including employees. To support this, a review of our consultation arrangements has been undertaken and summary of current arrangements is included in this paper, along with proposed enhancements which will ensure that we continue with our positive track record in this area. This aligns with the programme of work set out in The Plan for North Lanarkshire (P063 – Trade Union Consultative Framework).

Recommendations

It is recommended that the Finance and Resources Committee:

1. Note the details of the Council's current consultative framework and approve the intent to further build our engagement with trade unions and other stakeholders.
2. Approve the enhancements proposed and the intent to review facility time within the Trade Union Duties & Activities Policy.
3. Otherwise, note the contents of the report.

Supporting Documents

Council business plan to 2020 Improve the Council's resource base.

1. Background

1.1 North Lanarkshire Council is committed to working in partnership with our trade union colleagues and employee representative groups to support all aspects of workforce change. This commitment is based on the following principles:

- Communicating openly and honestly with representatives, outlining the rationale for change and the associated proposals
- Giving clear and up to date information
- Ensuring representatives are provided with adequate time to appropriately participate in consultation and represent their members as and when required.

This is in the context of unprecedented levels of workforce change within all services across the council, and it is critical that we adhere to these principles and that there is a strong, healthy working partnership with trade union colleagues and other stakeholders, including our employees.

2. Report

2.1 There are 32 local authorities in Scotland, all of whom negotiate their pay and terms and conditions nationally through COSLA, the Scottish Joint Council for Local Government Employees and through the Scottish Negotiating Committee for Teachers (SNCT).

2.2 The main guiding document for the local authority (non-teaching employees) originates from COSLA with employment terms outlined in the "Red Book" i.e. the Scottish Council for Local Government Employees National Agreement on Pay and Conditions of Service. In following this guidance, local authorities can operate their own structured approach to industrial relations and depending on the negotiating body or profession involved, the process can vary slightly. The teaching workforce is guided by principles and policy agreed with the SNCT.

2.3 North Lanarkshire Council supports the system of collective bargaining and believes in the principle of resolving employee relations matters through productive joint discussion and agreement, conducted by representatives from both the employer side and the employee side.

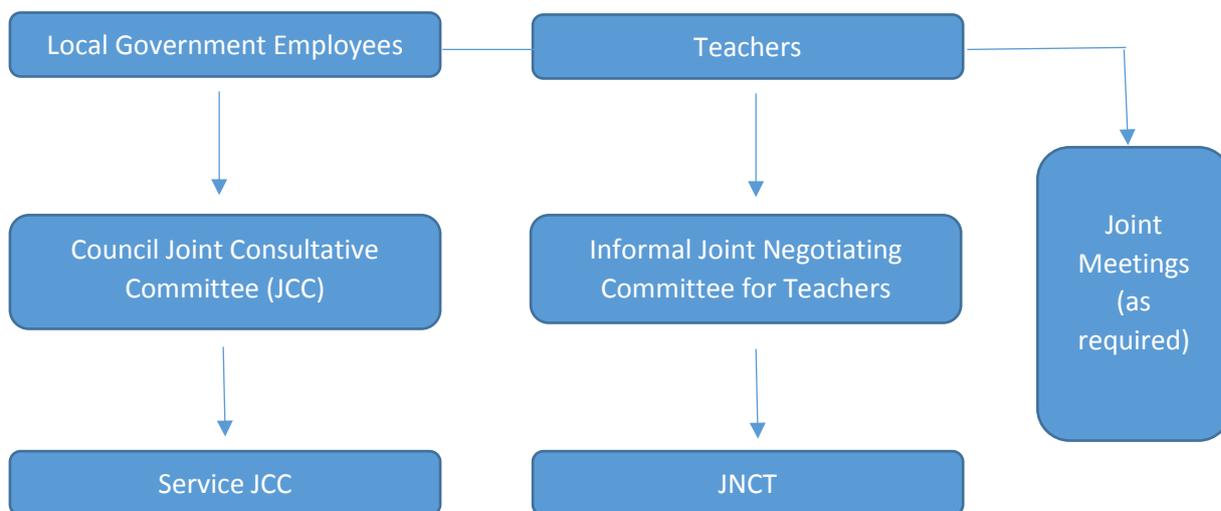
2.4 The Council also fully meets, and exceeds, its statutory obligations with respect to the direct consultation of employees who are affected by proposed organisational and workforce changes. A summary of the Council's statutory obligations is provided in *Appendix 1*.

2.5 Accordingly, the Council is committed to developing and maintaining good employee relations and recognises a number of trade unions for the purpose of collective bargaining at a local level. Employees are free to take up membership of a trade union that will represent them on the appropriate negotiating body if they wish to do so. Employees who are not a member of a union will also be bound by locally negotiated agreements reached through the Joint Consultative Committee (JCC) and the Joint Negotiating Committee for Teachers (JNCT).

- 2.6 The Council's joint consultative facilities are provided by consultative committees which take place at a Council and service level across the Council on a quarterly basis or more regularly if required.
- 2.7 This report sets out and describes the Council's overall commitment to our trade union partners, the local bargaining framework and identifies where there are opportunities for improvement.

2.8 Collective Bargaining Framework

The Council's collective bargaining framework is based around the following structure:



2.8.1 Functions and Membership of North Lanarkshire Council's Joint Consultative Committee

The following functions apply:

- To provide opportunities for joint consultation in relation to issues affecting the efficient operation of the Council, always provided that matters of individual wage/salary, discipline, promotion or efficiency will not be within the scope of the Committee.
- To provide a forum for employees to contribute to decisions that directly affect them, referred either by the Council or employee representatives.
- To consider and make recommendations, where appropriate, on the application of the terms and conditions of service and the training and development of employees of the Council, with the exception of any matters which, pursuant to the provisions of the Scheme of Pay/Salaries and Conditions of Service shall be referred to the Scottish Council.
- To provide opportunities for joint consultation in relation to issues connected with the health, safety and general welfare of employees of the Council.
- To consider and offer observations on any proposals made by the Council involving substantial administrative re-organisation to the extent to which it affects the employment and conditions of service of employees of the Council
- To provide opportunities for joint consultation in relation to issues affecting the efficient operation of the Council, always provided that matters of individual

wage/salary, discipline, promotion or efficiency will not be within the scope of the Committee.

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- To consider and make recommendations, where appropriate, on the application of the terms and conditions of service and the training and development of employees of the Council, with the exception of any matters which, pursuant to the provisions of the Scheme of Pay/Salaries and Conditions of Service shall be referred to the Scottish Council.
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- To consider and offer observations on any proposals made by the Council involving substantial administrative re-organisation to extent to which it affects the employment and conditions of service of employees of the Council

Membership of the Council JCC consists of 24 members, of whom 12 are appointed by the Council, including Elected Members, and 12 by organisations representing employees. Employee representatives are currently appointed as follows:

Unison	7 members
GMB	3 members
Unite	2 members

The Council's JCC is formally administered through Committee Services and held 4 times per year as part of the normal Committee cycle. Minutes are remitted to the appropriate parent committee (currently Finance and Resources).

2.8.2 Service Level Joint Consultative Committee

At a service level, local joint consultative committees are set up to allow for discussion in relation to issues affecting the efficient operation of the service. At this level, management may intimate or advise of any issue relating to Council or corporate policy which affects the service, as a means of ensuring an accurate flow of information on matters which affect employees. The Trade Union may intimate matters which have policy or corporate implications but any issues so mutually recognised and involving policy or corporate interests will require reference to the Council Joint Consultative Committee(s).

With the recent restructure of Council services under Phase 1 of the We Aspire programme, the structure of local JCC meetings has been reviewed to ensure appropriate alignment. This has indicated that historically, the operation and management of service level JCC meetings across different services has not always been consistent and services have differing levels of experience in dealing with large complex organisational changes. This has led to some difficulties including infrequent meeting schedules or the setting up or cancellation of JCC meetings at short notice.

In the current context of high levels of change, it is vitally important that services set out and maintain regular services JCC meetings in addition to other meetings which need to be convened to discuss the detail of proposed changes. This will be a key area for improvement going forward and the Employee Relations Team will work in partnership with the services to ensure that this happens.

2.8.3 Functions and Membership of North Lanarkshire Council's Joint Negotiating Committee for Teachers

North Lanarkshire Council has recognised 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 in the Council on all matters relating to conditions of service as defined as follows:

- Cover agreements
- Appointments procedures
- Particulars of employment
- Expenses of candidates for appointment
- Transfer of temporary teachers to permanent staff
- Promotion arrangements
- Staff development arrangements
- Specific duties and job remits
- Arrangements for school based consultation/negotiation
- Other leave and absence arrangements
- Notice periods
- Housing
- Indemnification procedures
- Other allowances
- Working time arrangements

The composition of each side of the JNCT shall be determined separately by both side but shall not exceed nine members of each side (including, in each case, the joint secretary (of which there will be one Joint Secretary for both the management and the union side). In addition to the formal JNCT meeting, which must take place at least four times a year, the Council supports an "informal" JNCT structure. The informal meeting takes place approximately 2-3 weeks before the formal meeting and provides an opportunity for an early discussion on matters that will be presented to the formal JNCT. Membership of the informal meeting is less prescriptive and does not include the participation of elected members.

2.9 Time off for Trade Union Duties/Facility Time Arrangements for Trade Union Representatives

2.9.1 Time Off for Trade Union Duties and Activities Policy

The Council approved the above policy in August 2008. The Policy sets out the Council's commitment to provide reasonable time off work with pay to officers of those trade unions recognised by North Lanarkshire Council for duties concerned with aiding and improving the effectiveness of relationships between the Council and the trade unions. The Policy makes the distinction between duties with pay and activities that will be supported without pay.

The Council and the trade unions accept that the amount and frequency of time off, paid or unpaid, has to reflect (a) the operational needs of the services provided to the community, and (b) the importance of maintaining stable industrial relations throughout the Council. In accordance with the ACAS Code of Conduct, the Council and the trade unions will approach the principle of time off in terms of the reasonableness of the request in all the circumstances. Colleagues seeking time off for trade union duties or activities are asked to apply for time off in writing using an agreed pro-forma.

A number of questions have been raised around the issue of time off by trade union representatives recently. To this end, it is proposed that a review of the Time Off for Trade Union Duties and Activities Policy is undertaken during 2019.

2.9.2 Facility Time Arrangements for Trade Union Colleagues

In December 2017, the Council undertook a review of facility time arrangements for the three non-teaching trade unions. At that time, only Unison and the EIS (acting as trade union joint secretary) made use of facility time arrangements – both making use of one full-time representative.

In considering the benefit of facility time agreements with all unions, the CMT considered the value of such support as a means:

- To establish good relations between members and their employers, to secure the settlement of disputes arising from members' employment, and to participate in joint negotiating machinery.
- To work with employers to achieve positive outcomes, and negotiate useful and beneficial agreements that help to achieve our purpose.

The review of facility time arrangements has been sought to ensure that both the GMB and Unite were able to access appropriate levels of facility time to support the ongoing development of good Council/trade union relationships.

It was agreed that facility time arrangements would be reviewed after 2 years – the next review being December 2019. To date, only Unison and the Joint Secretary for the JNCT have taken the opportunity to make use of the facility time offered. Despite this, it is recognised the pace of organisational change at present means that some trade union representatives (particularly Unite and the GMB) have been required to attend a significant number of meetings with the Council to discuss the nature of the

changes involved – current requirements for time to attend meetings cannot be accommodated within the agreed facility time offering. It is important that facility arrangements are flexible and, where the level of time offered based on membership is insufficient, that time is granted to representatives, as required. It is critical that all time off to support such activity is reviewed in line with the exigencies of the service.

2.10 Employee Equality Forum (EEF)

Although not a formal representative group, the Council also consults with the Employee Equality Forum (EEF) when workforce changes are planned. The EEF was established by the Council as a collective, co-ordinated resource to enable employees with protected characteristics to influence organisational strategies, policies and procedures for promoting equality, and tackling discrimination. As every individual has at least one protected characteristic, membership of the EEF is open to all employees.

The key purpose of the Forum is to make an effective contribution towards promoting equality and supporting the development of equality policies and practices in employment.

- To collectively work with the Council towards promoting equality and the elimination of discrimination.
- To provide an overview of equality issues and, in partnership with Council Officers, to identify and address amendments required to policies, practices, procedures and strategies.
- To develop mechanisms and communications channels to provide feedback about issues affecting employees with protected characteristics.
- To advocate for a more inclusive and holistic organisational culture that gains strength from its diversity.
- To collectively raise awareness and challenge inequality and highlight actions that can be taken.
- To foster an environment of mutual trust with the Council where group members have the professional support and space to communicate freely about equality issues.
- To work with the Council to ensure, as appropriate, the issues and strategies proposed by the Forum are built into the mainstream work carried out by the Council.

Membership of the EEF is open to any employee of the Council, and meetings take place quarterly or as required. We are currently exploring options to widen the role of this forum to include employee representatives from populations who may not fully have taken up membership of a particular union to ensure that all employees have a voice and are fully represented on matters which affect them.

2.11 Current and Planned Improvements

- 2.11.1** The scale of change in recent years has driven an increasing need for North Lanarkshire Council to proactively manage and plan the delivery of change well and in partnership with our recognised trade unions and our employees.
- 2.11.2** It is recognised that the Council already has a well-established framework at a Council-wide and local level to support the promotion of good employee relations and has good track record of delivering changes well and with good involvement of our unions and employees. However the pace and complexity of change now require us to be more systematic and consistent in our approach.
- 2.11.3** In light of this recent improvements have been made to the Council's JCC with an update of the constitution, improved arrangements for jointly agreeing the agenda items for discussion and better provision of detailed information and reports from officers which are sent out in advance of the meeting. A pre-meeting between HR and the Vice Convener/Convener now also takes place to ensure that the meeting is well planned. These changes were undertaken in conjunction with trade union colleagues and have helped to build and maintain appropriate levels of trust that trade union partners are able to raise issues of concern for discussion at the appropriate level.
- 2.11.4** Additionally, engagement with the teaching trade unions has been enhanced by a greater focus from Education & Families in involving trade union representatives in wider discussions within the service around curricular development and the development of guidance for teachers. This includes work recently undertaken to develop strategies for tackling pupil attendance and managing violence against staff, the use of appropriate restraint and anti-bullying in schools.
- 2.11.5** The Education and Families service has also recently established a new improving relationships working group which involves the Joint Secretary of the JNCT as a key member.
- 2.11.6** It should also be noted that the centralised People & Organisational Development service now has enhanced levels of officers with employee relations expertise who are responsible for managing and developing the formal employee relations environment so that employee consultation and engagement is effective. This includes supporting the joint consultative machinery across the Council and leading on ER negotiations and consultation, where required. This work is supported by the expertise based within the Services in the form of the HR Business Partnership Team. The HR Business Partnership team have a responsibility for a number of key areas, including:
- Trade union engagement activities, including planning and facilitating trade union meetings and dialogue with representatives in line with the framework.
 - Working with officers and managers to discuss and consider the implications of planned structural changes, including the impact on the employees and their terms and conditions.
- 2.11.7.** The value of having HR professionals involved in planning for change at an early stage is clear, and the service will be working closely with officers and managers to ensure that they are fully clear around their roles and responsibilities for ongoing trade union and employee consultation and that they are planning for this activity as part of their programme of work and the delivery of associated changes.

2.11.8 Support for educating line managers and officers in their role and responsibilities will be provided by the broader People and Organisational Team to ensure:

- Effective and timeous consultation with trade unions and all affected employees.
- Proactive planning to ensure that representative groups are given clear and consistent information in line with agreed timescales.

2.11.9 Services will be required to schedule and maintain a regular calendar of local service meetings, with additional meeting diarised and planned where there are more complex or large scale changes planned or underway to ensure meaning consultation.

2.11.10 Moving forward, the Employee Relations and Business Partnership Team Services will also be working closely with managers and officers to ensure that they are fully involved in all discussions around proposed structural changes from the earliest stage. Meaningful consultation with employee representatives must be about more than reliance on the negotiating framework. While, to date, the Council has managed to retrospectively manage the implications of such actions, failure to involve HR and employee representatives from an early stage will undermine the Council's commitment to good relations and potentially create the risk of industrial action and disruption to Council services.

3. Equality and Diversity

3.1 Fairer Scotland

The Council's commitment to improving and building upon existing consultation and communication arrangements will support overall strategic decision making and policy making at a local level.

3.2 Equality Impact Assessment

Strengthening of communication/consultation arrangements will support the Council's commitment to promoting equality.

4. Implications

4.1 Financial Impact

There are no direct financial implications.

4.2 HR/Policy/Legislative Impact

There is no requirement for further HR, policy or legislative changes.

4.3 Environmental Impact

There is no environmental impact.

4.4 Risk Impact

Strengthening of consultation/communication arrangements will help to mitigate potential risks associated with workforce change.

5. Measures of success

- 5.1 A robust consultative environment which seeks to ensure that information is shared in a timeous and appropriate manner.
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Fiona Whittaker
Head of People and Organisational Development

Appendix 1

North Lanarkshire Council's Consultation Responsibilities

North Lanarkshire Council's Workforce Change Framework, and new Workforce Change Policy, sets out the Council's commitment to working with employee representatives on all aspects of workforce change. The Council is fully committed to joint working with trade union partners and recognises the benefits it can bring in ensuring that we manage the impact of change on our employees in a responsible way.

The plan for North Lanarkshire clearly states the ambition set out in We ASPIRE that North Lanarkshire is the place to Live, Learn, Work, Invest and Visit - a place where there is a shared ambition for inclusive growth and prosperity for all. This defines all of our future work across communities, stakeholders and partners and means a commitment to change and working in partnership with all stakeholders to achieve our vision.

It is fully recognised that encompassed within this ambition are proposals which may ultimately lead to changes for affected staff groups. Statutory provisions within *The Collective Redundancies and Transfer of Undertakings (Protection of Employment) (Amendment) Regulations 1995*, set out that the Council has a duty to consult with recognised trade unions when it is proposed that changes may involve proposals which could lead to collective redundancies. Under these circumstances, there is a statutory obligation for the Council to consult the trade union representatives of any employees who may be affected as follows:

Statutory Consultation Period	
30 days	Where between 20 and 99 employees are to be made redundant within a period of 90 days or less
45 days	Where over 100 are to be made redundant within a period of 90 days or less

Although there is no legal obligation to consult beyond this statutory duty, the Council's position is that services will aim to apply similar timescales for consultation on all changes which affect employees whether there are more than 20 employees involved or not. This includes not only changes in service provision where redundancies (voluntary or otherwise) may be the outcome, but also material changes to terms and conditions and changes which may involve the transfer of employees from one organisation to another. Where it is anticipated that fixed term contracts will terminate and will not be renewed within the 90 day period, as part of the proposal, these employees will be included in the numbers for the purpose of determining the consultation requirement.

All consultation should be meaningful and undertaken in good time with a view to avoiding or limiting the effects of changes including redundancies. In this respect it is expected that the consultation procedure will be the commencement stage in the whole process not something which is undertaken when decisions have been made. It is through this process of open dialogue, that options should be considered for avoiding dismissals, before discussion takes place with individual employees, and with a view to reducing the numbers to be dismissed or mitigating the consequences of proposed changes whether these be redundancy or changes to terms and conditions.

All information for consultation purposes with the trade unions must be provided **in writing** and include:

- a clear articulation of the reasons for the change proposals
- the numbers and description of employees which it is proposed will be affected
- where required, the total number of employees who will form the pool for selection for redundancy (this can be greater than the number of employees anticipated to be made redundant)
- the proposed method for carrying out the redundancies (the selection criteria, including whether volunteers will be sought and from which areas of the Service)
- the time period over which any changes, including dismissals are to be made.
- the proposed method of calculating the amount of redundancy payments, or other forms of compensation (such as buy outs) to be made.

At the early stages of consultation, managers must keep their employees generally informed on matters (including employees on maternity, adoption, carer's or sickness absence) and that the formal consultation is progressing with the trade unions.

Where there is a business transfer or service provision change amounting to a relevant transfer under the *Transfer of Undertakings (Protection of Employment) Regulations 2006*, the Council will provide information to Trade Union representatives as follows:

1. The fact and proposed date of the transfer.
2. The reasons for the transfer.
3. The legal, economic and social implications of the transfer for affected employees.
4. Any measures which the relevant employer envisages taking in relation to employees, or if there are none, that fact.
5. As regards agency workers:
 - a) The number of agency workers working temporarily for and under the supervision and direction of the Council.
 - b) The parts of the Council's undertaking in which those agency workers are working.
 - c) The type of work those agency workers are carrying out.

The Council will consult if it is envisaged that measures will be taken in relation to affected employees. The Council will;

1. Consider any representations made by the Trade Unions.
2. Reply to those representations.
3. If those representations are rejected, explain why.

The Council will always consult when the proposals are at a formative stage, provide information in good time, and give conscious consideration to any responses as part of a meaningful consultation. Where the change proposed is complex or at scale, this process can take many weeks and involve many meetings with trade union representatives to work through the details and impact of the proposed change.

The Council also recognises that it is important to communicate effectively and regularly with employees while managing any organisational change – a number of whom may not be members of a trade union. Managers must take particular care to consider the timing and consistency of the information given to employees. It is critical that, wherever possible, briefings are aligned to ensure that all employees are given a clear and

consistent message at a similar stage in the process. Such meetings must be led by an appropriate level of management representative, involving HR support and should outline what is happening, why it is happening and the way in which the change may be implemented. Reference must also be made to anticipated timescales for change and to any reports to committee required and where/when these can be accessed. It is important to advise employees of how the changes will impact on them in terms of hours worked, location where work is carried out, roles and responsibilities, potential grade changes and the methods of selection/matching/redeployment that will be used.

Communication with staff can be via team meetings, special briefings, question and answer documentation and individual discussions. Even when there is no progress, staff should be informed appropriately so that uncertainty, rumour and speculation are minimised. Open and regular communication is critical to employee engagement during times of any organisational change and should be handled sensitively and fairly.