

PARTNERSHIP AND RESOURCES POLICY DEVELOPMENT AND SCRUTINY PANEL

AVOIDANCE OF INDUSTRIAL DISPUTES PROCEDURE

REPORT BY HEAD OF CORPORATE SERVICES

A. PURPOSE OF REPORT

To present for the Panel's consideration, a revised draft Procedure for Avoidance of Industrial Disputes in respect of non – teaching staff.

B. RECOMMENDATION

That the Panel considers the revised draft of the Avoidance of Industrial Disputes Procedure appended to this report with a view to submission to the Council Executive for approval.

C. SUMMARY OF IMPLICATIONS

I	Council Values	Focusing on our customers' needs
		Being honest, open and accountable
		Providing equality of opportunities
		Developing employees
		Making best use of our resources
		Working in partnership
II	Policy and Legal (including Strategic Environmental Assessment, Equality Issues, Health or Risk Assessment)	It is considered prudent that the council has in place a jointly agreed process with the trade unions for avoiding the escalation of potentially damaging disputes and for the maintenance of good industrial relations.
III	Implications for Scheme of Delegations to Officers	None
IV	Impact on performance	None

	and Indicators	performance
V	Relevance to Single Outcome Agreement	An agreed Disputes process can assist in avoiding potential damage to service delivery pending resolution of workplace disagreements.
VI	Resources - (Financial, Staffing and Property)	None
VII	Consideration at PDSP	None
VIII	Other consultations	The non – teaching trade unions have agreed the draft revised Avoidance of Disputes Procedure as part of the consultation process.

D. TERMS OF REPORT

D.1 BACKGROUND

While the council is fully committed to maintaining a constructive and positive working relationship with the recognised trade unions, it is also accepted that situations can arise from time to time where proposed changes to working practices and conditions of employment result in a failure to agree. It is therefore important in these circumstances that there is a recognised protocol available for helping to resolve such matters before they escalate into damaging industrial disputes.

Following local government reorganisation in 1996, West Lothian Council adopted a number of employment policies and collective agreements from its predecessor authorities (Lothian Regional Council and West Lothian District Council). One such agreement is the former Lothian Regional Council, *Avoidance of Disputes Procedure* which was agreed with the trade unions representing former APT&C staff, former Manual Workers and Craft Operatives. The procedure has remained unchanged in format and application since that time and requires updating.

The conditions of service governing the employment of teaching staff are separate to those of non-teaching staff and in this regard, teachers have in place their own disputes procedure which remains fit for purpose. The teaching procedure allows for a dispute to be referred either jointly or separately to the disputes machinery of the appropriate national negotiating committee following a failure to agree at local level.

D.2 AVOIDANCE OF INDUSTRIAL DISPUTES PROCEDURE (REVISED)

Following representations from the non-teaching trade unions through the council's Joint Consultative Group, the former LRC procedure has been modified and updated.

The revisions to the procedure are relatively minor in nature and include removal of out of date references to the National Joint Council (NJC) which became obsolete following the introduction of the Single Status Agreement in 1997.

The revised procedure also retains the option for parties to agree to third party assistance through the Advisory Conciliation and Arbitration Service (ACAS) in the event of failure to agree a resolution at the Avoidance of Disputes Committee.

E. CONCLUSION

The draft Avoidance of Industrial Disputes Procedure appended to this report replaces the current version previously adopted by the council at the time of local government reorganisation.

It is intended that the revised procedure should be regarded as a contingency measure that is invoked only in limited circumstances where it has proved difficult to achieve agreement on proposed material changes to working practices and conditions of service through the normal consultative process.

F. BACKGROUND REFERENCES

- Avoidance of Industrial Disputes Procedure (Collective Agreement) 1976
- Trade Union Consultation Protocol

Appendices/Attachments: Avoidance of Industrial Disputes Procedure (Draft)

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WEST LOTHIAN COUNCIL

AVOIDANCE OF INDUSTRIAL DISPUTES PROCEDURE

(All employees except Chief Officers and Teaching Staff)

1. CONSULTATION PROCESS

- 1.1 The council and the recognised trade unions acknowledge that the council must retain flexibility to respond to constantly changing service delivery needs and priorities going forward. Where proposed changes materially impact on existing working practices and conditions of service, the council is committed to achieving the changes through full consultation with those affected and their trade union representatives.
- 1.2 Where agreement cannot be achieved through the process outlined above, the council and the recognised Trade Unions agree that it shall be the joint responsibility of the relevant Depute Chief Executive and the Trade Union(s) to avoid such matters escalating into an industrial dispute by adhering to the consultative mechanisms set out in this procedure.
- 1.3 It is incumbent upon both parties to this agreement, that no restrictions, alterations in conditions of employment or industrial action shall be imposed by either party until the provisions of the procedure outlined below have been fully exhausted.

2. PROCEDURAL STEPS

- 2.1 It is the responsibility of the Trade Union concerned to notify the Depute Chief Executive, in writing, of an industrial dispute or an impending industrial dispute.
- 2.2 On receiving notification of an industrial dispute or impending industrial dispute, the Depute Chief Executive will, within seven days, make arrangements for a meeting between appropriate representatives of the council and representatives of the Trade Union(s) concerned in order to:
 - Identify and define the nature and cause of the dispute; and
 - Endeavour to resolve the dispute
- 2.3 In the event of failure to agree a resolution at 2.2 above, a meeting of the council's Avoidance of Disputes Committee will be convened as soon as possible, but in any event within 14 days.
- 2.4 In the event of failure to agree a resolution at the Avoidance of Disputes Committee, it shall be open to the parties to agree to consider whether third-party assistance, normally from the Advisory Conciliation and Arbitration Service (ACAS), is suitable. A decision on whether this is required should be taken within 5 days of the meeting.

3. PROCEDURE PRIOR TO AVOIDANCE OF DISPUTES COMMITTEE

- 3.1 Prior to a hearing of the Avoidance of Disputes Committee, the Trade Union(s) will submit to Committee Services:
- a written statement indicating the nature of the dispute, reasons for failure to reach a mutually agreeable solution at an earlier stage, their desired resolution; and
 - a copy of any other documents to be placed before the Appeals Committee.
- 3.2 Committee Services will issue the agenda for the meeting of the Avoidance of Disputes Committee, which will contain all the documents submitted under paragraphs 3.1 above, not less than 5 working days in advance of the appeal hearing.
- 3.3 The Avoidance of Disputes Committee may order such other information and/or documents to be submitted as it may consider appropriate.

4. CONDUCT OF THE AVOIDANCE OF DISPUTES COMMITTEE

- 4.1 The Avoidance of Disputes Committee will identify and define the nature and cause of the dispute by:
- considering the written submission of the Trade Union side and allowing the Trade Union representative(s) to present their case
 - asking questions of both the council representative(s) and the Trade Union representative(s)
- 4.2 The Avoidance of Disputes Committee will endeavour to resolve the dispute by attempting to find a resolution that is mutually acceptable to both sides.
- 4.3 The Chair of the Avoidance of Disputes Committee is responsible for ensuring that both sides have a fair opportunity to present their cases, and that the members of the Committee are able to elicit the information necessary to come to a conclusion. This includes provision for either side to make representations through the Chair of the Committee on any aspects of the other's submission that require clarification.
- 4.4 The Avoidance of Disputes Committee may consider referral to an appropriate Committee of the Council if a solution is proposed that overturns a previous Committee decision or policy.
- 4.5 The Avoidance of Disputes Committee may ask both sides to withdraw to allow consideration of the case in private.
- 4.6 The Avoidance of Disputes Committee will be advised as appropriate by officers from Human Resources and Legal Services

Human Resources
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