

Circular on the Agreement regarding Cooperation and Joint Consultation Committees in the State

(For all Ministries and Agencies, etc.)

General notes

The Ministry of Finance and the Association of Danish State Employees' Organisations, CO10 – the Central Organisation of 2010, the Danish Confederation of Teachers Associations and the Danish Confederation of Professional Associations have entered into the attached Agreement regarding Cooperation and Joint Consultation Committees in the State.

The Agreement is a revised version of the Cooperation Agreement of 1 June 2011. The annulment of the former Agreement's section 7 regarding local agreements on increased employee influence (MIO) involves no restrictions to the parties in the development of cooperative arrangements adjusted to local requirements.

The Agreement implements the following EU Directives and European Agreements:

- Council Directive 2000/43/EC of 29 June 2000 implementing the equal treatment of all persons irrespective of racial or ethnic origin
- Council Directive 2000/78/EC of 27 November 2000 establishing a general framework for equal treatment in employment and occupation
- Directive 2002/14/EC of the European Parliament and of the Council of 11 March 2002 establishing a general framework for informing and consulting employees in the European Community
- The European framework agreement of 8 October 2004 on work-related stress
- The European framework agreement on harassment and violence at work of 26 April 2007.

1. Objective

A well-functioning and solution-oriented local cooperation is crucial in order to attain good public workplaces focused on their objectives and characterised by quality in the management of tasks, well-being, renewal and efficiency. A good local cooperation is a dialogue forum where decisions and new ideas can be discussed and developed between management and employees.

It is the responsibility of management to make sure that the workplace develops and fulfils the demands and expectations of its host society. Management and staff must cooperate on the implementation of the strategy and goals of the workplace.

The objective of the Cooperation Agreement is to further a constructive local cooperation based on trust and dialogue. The Agreement lays down the framework for cooperation between management and employees with a view to involving the employees in the formulation and fulfilment of the workplace's goals and strategy. The Agreement is meant to create the best possible starting-point for the joint consultation committee – based on the concrete challenges, requirements and circumstances – to engage in what is relevant for the individual workplace and its future.

A trusting cooperation between management and employee representatives presupposes that they handle their function in mutual respect for each other's roles and keep each other informed about substantial matters of importance to the workplace in order to positively contribute to the development of the workplace.

2. Framework for the work of the joint consultation committee

The Agreement lays down the framework for how the joint consultation committee is to cooperate on working and personnel matters subject to the employer's managerial rights. Thus, conditions that are regulated by collective agreements - including pay and appointment conditions - do not fall under the joint consultation committee.

The point of departure of the cooperation for employee representatives on the committee shall be the staff groups' common interests regarding the conditions of the workplace.

The joint consultation committee shall conduct evaluations of its work on a regular

basis in order to ensure that the work is constantly being improved and properly targeted.

3. Information and debate on the joint consultation committee

On the joint consultation committee the management and employee representatives must inform each other about and debate the conditions of the workplace.

Any information provided must, to the extent possible, take the form of both written and oral communication.

(2). The management's duty to provide information

On the joint consultation committee, management must inform about:

1. Recent developments at the workplace and expected developments relating to activities and to the financial situation.
2. The present situation of the workplace and expected developments regarding structure and employment, particularly in connection with structural changes and in situations when employment is threatened. Planned and expected measures must also be included in this connection.
3. Other decisions that may lead to considerable changes in the planning of work and in the employment conditions of staff.
4. Competitive tendering and contracting out.

Information must be provided as soon as possible and contain appropriate substance for a thorough discussion to take place on the joint consultation committee, thus enabling the views and proposals of staff to form part of the basis for the final decision to be taken by management.

(3). Information and discussion at the right level

It shall be the responsibility of the management to ensure that information and discussion take place in parallel with the management and decision structure. Information and discussion must be established between the management that has the competence and the employee representatives of the staff groups affected.

If a situation arises that calls for information and discussion of subjects that lie beyond the remit and competence of the chairman of the joint consultation committee, it shall be the duty of the relevant management to ensure that all joint consultation committees affected are informed and consulted.

If a group management or the like is set up, it shall be the task of the management, whenever a situation requires the provision of information and consultation, to assess, together with the representatives of organisations entitled to take part in collective bargaining, ways in which information may be provided and consultation take place in the most expedient manner. This may take the form of:

1. The establishment of a joint consultation committee at group management level
2. The set-up of an ad hoc committee
3. Discussion on the relevant joint consultation committees within in the area

(4). Staff members' duty to provide information

Employee representatives must inform the joint consultation committee of views and conditions among staff that are of importance to the cooperation.

(5). The joint consultation committee's duty to provide information

The joint consultation committee must ensure that all staff members are provided with information on the work of the joint consultation committee.

(6). The joint consultation committee's discussions

If the management or employee representatives so wish, the joint consultation committee must discuss the conditions that are subject to the duty to provide information.

4. Tasks

The joint consultation committee deals with relevant topics within working and staff conditions, which are of importance for the workplace. It is up to the individual joint consultation committee to estimate which topics are of particular relevance for a strategic connection between the work of the joint consultation committee and the goals of the institution to exist. These may be:

- a) Working and staff conditions
- b) Trust, cooperation and well-being
- c) Restructuring at the workplace

Re 1. Working and staff conditions

With a view to creating an attractive and efficient workplace, as well as motivated employees working to fulfil the goals of the institution, it is expedient that the joint consultation committee discusses working and staff conditions subject to the

managerial right.

The joint consultation committee may discuss:

- The institution's personnel policy
- The initiatives aimed at keeping senior workers
- The balance between working life and private life and the policy regarding leaves of absence
- The policy regarding sickness absenteeism and sickness absenteeism talks

Job on special terms

With a view to integrating groups that have difficulty in gaining a foothold in the labour market, the joint consultation committee can discuss the possibilities of making use of social and labour market policy schemes.

The joint consultation committee can establish general guidelines, cf. section 6, for designing jobs on special terms, for instance concerning job content, training, staff performance and development reviews, competence development and the number of positions that may be filled on special terms.

Re 2. Trust, cooperation and well-being

The joint consultation committee plays a central role in making sure that the workplace has a good psychological work environment, which is characterised by trust and cooperation and which helps to create room for professionalism and quality in the undertaking of tasks.

The joint consultation committee may discuss:

- Trust and cooperation at the workplace
- Framework for professionalism and quality in the undertaking of tasks
- Well-being and psychological work environment

In order to further possible initiatives and efforts, the joint consultation committee can coordinate with the Danish Working Environment Authority.

Re 3. Restructuring at the workplace

The joint consultation committee plays a central role in ensuring a positive approach to continuous changes within the state.

The joint consultation committee may discuss:

- The consequences of major rationalisation and restructuring projects, including

- competitive tendering, contracting out and outsourcing of tasks
- The consequences for the institution's finances, organisation of work, staff requirements and competence development
- A plan for the restructuring process including, for instance, communication to the workplace matters relating to implementation as well as handling of the consequences for the workplace

5. Special tasks

As a supplement to the tasks that the local joint consultation committee chooses to prioritise in its work, the joint consultation committee has a number of special tasks.

(2). Goals, strategy and finances

The joint consultation committee must discuss the goals and strategies of the institution in order to include the staff in the deliberations to make the institution work in a quality-conscious, goal-oriented and efficient manner.

To this end, the joint consultation committee must discuss:

- The correlation between the institution's goals/strategy and personnel policy
- Relevant parts of a potential performance contract for the institution/manager contract
- The institution's budget and appropriation, including the overall prioritisation of the application of the appropriation

Circular comments to section 5 (2):

In connection with the joint consultation committee's discussions of relevant parts of a potential performance contract for the institution or a manager contract, topics such as the institution's work related, development and personnel policy goals may be discussed.

In connection with the joint consultation committee's discussions of the budget and finances of the workplace, it is particularly relevant that the management informs about the joint consultation committee of expenses provided for in the budget as well as incurred expenses that relate to working and staff conditions, for example payroll, overtime and additional hours and competence development.

(3). The joint consultation committee has the following tasks as a result of other agreements and EU Directives:

- a) Competence development

The joint consultation committee has a role in connection to furthering a strategic aim with competence development at the workplace. The joint consultation committee's concrete tasks in connection with the workplace's efforts to create competence development follow the agreement on competence development and the agreement on the competence fund

b) Discrimination

The personnel policy shall contribute to prevent direct and indirect discrimination. This includes helping to ensure that all employees – irrespective of sex, ethnic origin, skin colour, race, religion, disability, age and sexual orientation – get the same opportunity for appointment, education, promotion as well as working conditions in general

c) Equal treatment

The joint consultation committee must discuss gender equality questions and work to ensure that gender equality is an integrated part of the personnel policy

d) Staff satisfaction

The staff's satisfaction and well-being, including the psychological work environment, must be evaluated at least once every third year, perhaps in connection with the statutory workplace evaluation

e) Work-related stress

The joint consultation committee must discuss the workplace's effort to identify, prevent and handle problems in connection with work-related stress

f) Bullying, harassment and violence

The joint consultation committee must discuss the workplace's efforts to further a work environment where the employees are not subjected to bullying, (sexual) harassment or violence from colleagues, management or third parties

Circular comments to section 5 (3):

In connection with the joint consultation committee's discussions of gender equality and the prevention of direct and indirect discrimination, reference is made to the law on equal pay for men and women, to the law on gender equality as well as to the law on prohibition of discrimination on the basis of race, etc.

6. (1) Establishment of guidelines/principles

The joint consultation committee may lay down guidelines or principles for the

working and staff conditions of the workplace.

(2). The establishment of guidelines shall be limited to the responsibility and competence area of management.

(3). If one of the parties so wishes, consultations regarding the establishment of guidelines must be initiated.

(4). A consensus between the parties on the joint consultation committee shall be required when the guidelines are to be established. If it is not possible to reach a consensus, management shall lay down the necessary guidelines.

(5). It shall be deemed a breach of the Cooperation Agreement if no positive will is demonstrated in the endeavour to reach a consensus.

(6). All guidelines must be drawn up in writing.

(7). Either party may terminate the guidelines at three months' notice. Prior to the notice of termination, the joint consultation committee must endeavour to change the existing guidelines in a manner that the two sides of the joint consultation committee will find satisfactory.

Circular comments to section 6:

The "parties on the joint consultation committee" shall be construed as the management side and staff side, respectively. When the agreement states: "A consensus between the parties on the joint consultation committee shall be required" and "If one of the parties so wishes", it shall mean that there must be wide acceptance among the members on the "side" in question of the joint consultation committee. This implies that the individual member of the joint consultation committee may not claim to be a party within the meaning of the agreement and, consequently, has no right of veto to block the work of the joint consultation committee.

7. Establishment of a joint consultation committee

At institutions with a minimum of 25 employees, a joint consultation committee must be set up.

If, within the institution, there are more workplaces with an independent management function with a minimum of 25 employees, a joint consultation committee must be

set up for each of these workplaces.

If several joint consultation committees are established within an institution, a general joint consultation committee, which is common to the entire institution, must be set up.

It is of crucial importance for the cooperation that the structure of the joint consultation committee reflects the organisational structure.

If several state sector institutions decide to perform tasks jointly/establish a workplace with an independent management function and a minimum of 25 employees, a joint consultation committee must be set up.

At institutions where, due to a limited number of staff, there is no requirement to set up a joint consultation committee, cooperation must take place according to the same principles as are set out in this Agreement.

(2). Composition of the joint consultation committee

The number of seats on the joint consultation committee shall be decided subject to agreement between the management and the representatives of the staff organisations entitled to take part in collective bargaining.

If more organisations entitled to take part in collective bargaining are represented at the institution, the distribution of the number of seats among the organisations shall be decided by agreement among these.

The manager in charge of the institution or in charge of the part of the institution in question shall chair the joint consultation committee and shall appoint the other management representatives of employees' organisations at the institution.

The employee representatives and deputies for these shall be appointed by the staff organisations entitled to take part in collective bargaining among the registered representatives of employees' organisations at the institution. If more employee representatives are to be appointed than there are representatives of employees' organisations, the appointment shall be made among the other staff members at the institution. The persons concerned shall be notified to the management of the institution. Deputies shall be notified in a similar manner.

The employee representatives shall elect the deputy chairman of the joint consultation

committee.

Members and deputies shall be appointed for a two-year term. Once the basis for an appointment no longer exists, it shall be terminated.

(3). Subcommittees

The joint consultation committee may set up permanent or ad hoc subcommittees for the purpose of handling specific tasks. When the joint consultation committee sets up a subcommittee, the competence of this committee in relation to the joint consultation committee must be clearly set out in terms of reference.

(4). Liaison committee

It is possible to set up a liaison committee comprising the employee representatives of the joint consultation committee and a representative of each of the staff organisations that are not represented on the joint consultation committee.

The tasks of the liaison committee are to offer guidance and advice to staff representatives on the joint consultation committee. The committee shall be convened prior to meetings of the joint consultation committee.

Circular comments to section 7:

As a guide, a management area has been envisaged with a degree of independent personnel administration and budget administration that makes it reasonable to set up a joint consultation committee for the area concerned.

The decision as to whether a workplace may be considered an “institution”, which is under an obligation to set up a joint consultation committee, depends among other things on an assessment of whether the management function includes:

- 1. Independent managerial right*
- 2. The right of decision or recommendation in connection with the appointment and dismissal of employees*
- 3. Independent responsibility for budget and accounts management*

It is the parties of the individual institution who must make an assessment of whether it is reasonable to establish more joint consultation committees.

If cooperation is established between a state sector institution and local government or private sector institutions with a view to future joint attention to tasks, steps must

be taken to ensure that state sector staff continue to have the same rights of information, discussion and participation regarding the working and staff conditions at the workplace as are laid down in this Agreement.

8. Local agreements on organisational change of the work environment effort

In order to strengthen the work environment effort, agreement may be reached on another organisation of this work, for example by merging the joint consultation committee and the work environment committee.

The agreement must be concluded between the management and the representatives of the staff organisations entitled to take part in collective bargaining and must satisfy the minimum requirements laid down in the Danish Working Environment Authority's executive order regarding cooperation on safety and health.

All representatives on the combined committee must receive an offer of participation in the statutory work environment training.

9. (1) Preparation of meetings

The chairman and the deputy chairman shall jointly draw up an agenda for the meetings.

The joint consultation committee shall draw up minutes of the joint consultation committee's meetings.

The joint consultation committee shall determine its own rules of procedure.

Meetings shall be held primarily during working hours, and members must have the necessary time at their disposal for work on the joint consultation committee. Members shall receive an hourly and per diem allowance as well as an allowance for travelling expenses according to the rules agreed upon between the Ministry of Finance and the central organisations.

For participation in meetings and for travelling time in connection with these outside the normal working hours of those concerned, compensation shall be granted under the rules of the agreement on representatives of employees' organisations in the state sector, etc.

(2). Calling in of experts

When considering special issues on the joint consultation committee and

subcommittees, either party may call in persons with special expertise in the relevant field from the institution. The calling in of other specialists, including external experts shall be subject to a consensus between the parties.

Furthermore, where one of the sides of the joint consultation committee requests it, the joint consultation committee may obtain assistance and guidance from the general joint consultation committee concerned, the employee organisations affected and the central parties to the agreement.

Circular comments to section 9:

In combined cooperation organs that also attend to the tasks, which would otherwise be transferred to work conditions committees, reference is made to the provisions in the Ministry of Finance Circular of 1 September 1993 on pay of safety representatives.

10. Protection in connection with dismissal and relocation

All employee representatives on the joint consultation committee and on combined joint consultation and safety committees set up under section 8 shall have the same protection as representatives of employees' organisations in the area. Deputies shall have the same protection as the deputies for representatives of employees' organisations in the area.

11. Training of members of the joint consultation committee

Within the first six months after having been appointed, a member of the joint consultation committee must be offered a course for joint consultation committee members.

12. (1) Advice and guidance for joint consultation committees

The central parties shall set up a committee for the purpose of promoting the work of the joint consultation committees through comprehensive information and guidance activity vis-à-vis the joint consultation committees. In addition, the committee shall be responsible for the training of members of the joint consultation committees.

(2). Secretariat

The performance of the committee's tasks shall be attended to by a secretariat. The secretariat, which is accountable to the parties, shall handle the day-to-day tasks. The secretariat shall, furthermore, provide advice and guidance for both management and employee representatives on the state sector joint consultation committees with respect to cooperation issues. Either party shall contribute equally to the operation of

the secretariat.

13. (1) Joint Consultation Board

The task of the Joint Consultation Board is to consider and decide on cases of interpretation and breach of the Agreement.

(2). Composition

The Joint Consultation Board shall include equal representatives of either party to the Cooperation Agreement. The Ministry of Finance shall appoint the chairman from among the members of the Board. The deputy chairman shall be appointed by the central organisation from among the members of the Board.

14. (1) Disagreements

Either party on the joint consultation committee may require that a general joint consultation committee, if any, must consider disagreements over the interpretation and alleged breaches of the provisions of the Agreement. If no consensus is reached on the general joint consultation committee, the disagreement shall be submitted to the Joint Consultation Board for decision.

(2). Direct submission to the Joint Consultation Board

If no general joint consultation committee has been set up at the institution, the disagreement shall be submitted directly to the Joint Consultation Board for decision.

15. (1) Breach of the duty to provide information

In case of a breach of the duty to provide information (section 3 (2) and (3) of the Agreement), the staff side may request that the duty to provide information must be complied with. The request must be presented in writing. Management shall then have a time limit of one month from the receipt of the request for taking steps to fulfil the obligation.

(2). Sanctions

If no step has been taken within the time limit to fulfil the obligation, the staff side may lodge a complaint with the Joint Consultation Board. In case of a breach of the Agreement, the Joint Consultation Board or the arbitration tribunal, cf. section 16, shall decide on the imposition of suitable sanctions, for example a reprimand or a penalty. The penalty may, provided the local parties agree, be used for initiatives to promote cooperation.

16. (1) Arbitration

If no consensus can be reached on the Joint Consultation Board in cases of interpretation and breach of the provisions of the Agreement, the question shall be submitted to an arbitration tribunal.

(2). Composition

The arbitration tribunal shall include four members. The Ministry of Finance shall appoint two of these and the central organisations shall appoint two. The arbitration tribunal shall appoint an umpire. If no consensus can be reached on the appointment of an umpire, the Industrial Court shall be requested to appoint the umpire.

(3). Rulings

The arbitration tribunal shall give a reasonable ruling, which shall be binding on both management and staff.

17. Conscripts

The Agreement shall not include personnel who are under a duty to service. To the extent it is required by conditions in the military defence and in the civil preparedness, it shall be possible, subject to negotiation with the staff organisations affected, to depart from the provisions of the Agreement.

18. Commencement

This Agreement shall come into force on [date]. The Agreement shall at the same time repeal:

The Circular of 1 June 2011 on the Agreement regarding Cooperation and Joint Consultation Committees in State Sector Enterprises and Institutions.

19. Termination

This Agreement shall be terminable by either party by giving three months' prior notice to expire on the first day of any month. After termination, the Agreement shall remain in force until it is replaced by a new Agreement, but no longer than up to a maximum of 12 months after termination.