

AGREEMENT ON INFORMATION AND CONSULTATION ARRANGEMENTS WITHIN THE LOCAL AUTHORITY SECTOR



Handling Significant Change through Partnership

Agreement between Management and Local Authority
Trade Unions

August 2006

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1. Introduction: Context and background

1.1 The EU directive 2002/14/EC of March 2002 (hereafter referred to as the Directive) was transposed into national Irish legislation in the “Employees (Provision of Information and Consultation) Act 2006” (referred to as the Act throughout this document). Together, they set out the basis and obligations for organisations to put in place procedures, processes and practices to enable effective information sharing and consultation between employers and employees’ representatives.

1.2 This agreement has been approved by the management and trade unions within the local government sector, working under the aegis of the Local Authorities National Partnership Advisory Group (LANPAG), with the following context in mind:

- We operate in a highly unionised sector;
- A structured partnership programme has been in place within local government since 1999, the purpose of which is to enable a new active relationship in managing change characterised

by employee participation and consultation, the development of joint objectives, co-operation and trust and the delivery of customer-focused quality services;

- Centralised, collective bargaining IR mechanisms are used within the local government sector.

1.3 Parties to this agreement

The parties to this agreement are set out in the signature block at the end of the document. Hereafter, they will be referred to collectively as ‘the parties’.

1.4 Values underpinning this agreement

While the Act sets out the minimum legal responsibilities and obligations of the parties, this agreement is intended to support and promote the following values, through the implementation of effective information and consultation:

- efficiency and effectiveness
- commitment
- striving for excellence
- respect and support for each other

- integrity and openness
- loyalty to partnership goals and values
- developing trust
- communication and listening
- leadership
- focusing on interests
- seeking win-win solutions
- accountability and responsibility.

2. Purpose of this agreement

- 2.1 The purpose of this agreement is to provide an information and consultation framework for the local government sector, within which local authorities (undertakings as defined in the Act) may fulfil their obligations under the Act.

3. Status of this agreement

- 3.1 This is an agreement between the named parties, giving effect to the Directive and the Act, to set out the ways in which information sharing and consultation will be carried out within the local government sector.
- 3.2 This agreement meets the requirements of Section 9 of the Act, in respect of pre-existing agreements, and will be used by local authorities as the basis for meeting their obligations under the Act.

4. Scope of this agreement

- 4.1 This agreement sets out approaches necessary to:
- ensure employees receive the information to which they are entitled;
 - provide information to enable involvement of staff in change processes;

- implement arrangements that enable information and consultation to improve decision-making and organisational performance.

4.2 This agreement:

- elaborates the context in which information sharing and consultation take place within the sector;
- sets out procedures compliant with the Act and the Directive on information and consultation;
- is applicable to all employees of the local government sector to whom it relates;
- provides an agreed process to enable and support optimum consultation within the sector. (The detailed application of that process may need to be tailored to the specific circumstances in each organisation within the sector and for consultation on specific issues.);
- provides guidance for a good practice approach to information and consultation (Appendix 1).

5. Key definitions

- 5.1 The joint protocol “Handling Significant Change Through Partnership” recognises within its framework that the partnership process will ensure effective information and consultation occurs as follows:
- **information** will be provided to employees on recent and probable developments within each local authority in relation to its activities and economic situation - for example, an expansion, change of business direction or anticipated financial constraints within the local authority;

- to **inform and consult** on the situation, structure and probable development of employment within the local authority and any anticipatory measure envisaged, in particular where there is a threat to employment;
- to **inform and consult** on decisions likely to lead to substantial changes in work organisation or in contractual relations, including those covered by the Community provisions referred to in Article 9 of the Directive (collective redundancies and transfer of undertakings).

5.2 We agree that these arrangements as a pre existing agreement comply with Section 9 of the Act.

5.3 With regard to the above, we acknowledge that:

- “consultation” means *“the exchange of views and establishment of dialogue between the employees’ representatives and the employer”*; and
- “information” means the *“transmission by the employer to the employees’ representatives of data in order to enable them to acquaint themselves with the subject matter and to examine it.”*

6. Context of consultation

6.1 In the context of a partnership culture, it is accepted that consultation is not an isolated incidence of exchanging views on a specific issue. The exchange of views implicit in consultation is expected to take place at all stages during the implementation of change. Reflective of the intent of the Directive and the Act, consultation between management and

employees’ representatives will occur with a view to reaching an agreement on decisions within the scope of the management’s power. We agree that under such circumstances it is not necessary that agreement actually be reached but we will endeavour to ensure that the consultations are genuine and undertaken with the intention of reaching agreement.

6.2 While consultation will be entered into with a view to reaching agreement, it is acknowledged that consultation does not assume that all parties will reach agreement on all issues being discussed. Parties may disagree on issue(s) under consultation, may record such disagreement and pursue early resolution of those disagreements through appropriate channels. Every effort will be made by all the parties to prevent disagreements or resolve any disagreements at the earliest opportunity and as quickly as possible using, where appropriate, the facilities available through agreed partnership and industrial relations processes.

6.3 Consultation shall not occur where management believe that such consultation would seriously damage the undertaking or where it has to comply immediately with an order issued to it by a regulatory or supervisory body. However all employees will be informed of such decisions at the earliest possible opportunity.

6.4 Basis of consultation

Consultation shall be based on information/data exchanged between the employer and employee representatives in order to enable them to:

- acquaint themselves with the subject matter, from each others' perspectives;
- to examine the details and to formulate opinions;
- to enable employee representatives to meet the employer
- to obtain a response
- to obtain the reasons for that response
- and to listen to any opinions the employer might formulate about the employees' views on the issues under discussion.

6.5 It is acknowledged that change should be managed in the most effective and efficient way possible to serve the best overall interests of the local government sector, staff and the broad client base. This agreement is based on the acceptance by the parties that effective change management is founded on the need:

- to identify the parties likely to be affected by proposed change;
- to provide information about the proposed change to those likely to be affected;
- to consult with the parties likely to be affected by proposed change;
- where appropriate, to carry out a change impact analysis, the purpose of which is to identify the effects (both positive and negative) of introducing the proposed change;
- to take due account of the possible impact of the proposed operational and/or strategic changes on established workplace practices and terms of employment, and the

(associated) need to consult with employees' representatives;

- for the parties and/or their representatives to fully engage with the preparation for and implementation of change.

7. Direct and indirect involvement

- 7.1 In adherence to the principles of the pre-existing partnership arrangements, we agree that consultation with employees shall be by indirect involvement, that is, in accordance with Section 6 of the Act, through representatives nominated to LANPAG and to the partnership committees within each local authority. Employee representatives will undertake to include all staff in the relevant information and consultation process. However this does not preclude management from directly consulting staff through mechanisms agreed within the partnership arrangements as suggested in Appendix 2.

8. The process for consultation and information sharing

- 8.1 In accordance with the principles of the current partnership arrangements we agree that:
- the timing, method and content of the information and consultation will be consistent with partnership issues/agenda agreed nationally and locally;
 - the appropriate level of management and employee representation will engage in the subject under discussion;
 - the information supplied to employee representatives will be relevant enabling them to examine the subject matter under consideration;

- meetings will be set up in such a way as to allow the employee representatives to meet management and to obtain a response and reasons for that response to any opinion formulated by the employee representatives.

8.2 Time line for effective consultation

It is recognised by all the parties that adequate time is required to allow for full information sharing and consultation, before final decisions are taken and change implementation processes commence. Every effort should be made to exchange information and enter consultation at the earliest possible opportunity, in order to ensure that no undue delays occur with implementing any changes required.

9. Rules of procedure

- 9.1 The arrangements and conduct of meetings will be consistent with the current arrangements for Partnership meetings as agreed under A Framework For Partnership In the Local Authorities.
- 9.2 The parties are committed to addressing any problems which may arise during the consultation process in a constructive manner, with a view to resolving difficulties where possible.
- 9.3 Subject to confidentiality restrictions, the employee representatives will report back within the partnership structures to the employees concerned about the content of the meetings held.
- 9.4 Where necessary, management will provide expert advice to assist in the information and consultation process.

- 9.5 Expenses incurred in the information and consultation process will be a matter for the employer.

10. Handling confidential information

- 10.1 Employees participating in information and consultation procedures will be bound by a duty of confidentiality. Any employee representative, employee participant or expert providing assistance is not authorised to reveal to employees or third parties any information which, in the legitimate interest of the local authority, has been expressly provided to him/her in confidence. This obligation shall continue to apply even after the cessation of their employment and/or expiry of their terms of office. Notwithstanding this clause, a person as described above may disclose information which has been expressly provided to him or her in confidence to employees and to third parties bound by an obligation of confidentiality.

11. Co-operation

- 11.1 When defining or implementing practical arrangements for information and consultation, management and employees' representatives shall work in a spirit of co-operation and with due regard for their reciprocal rights and obligations, taking into account the interests both of the local authority and the employees. Where appropriate, partnership facilitators will be utilised to foster co-operation between management and employees' representatives.

12. Engaging in good faith

- 12.1 The parties to this agreement accept that information sharing and consultation will be entered into in good faith by the representatives of all parties concerned. It is accepted that the primary purpose of agreeing a formal approach to information and the consultation processes is:
- to keep all the parties fully informed, as early as possible, about developments of mutual interest which may involve substantial change in the organisation;
 - to provide the best opportunity for the reasons for such change, the nature of change being considered and the means for implementing that change, to be discussed as early as possible by the parties;
 - to ensure that there are no unreasonable and/or unnecessary delays in providing information, entering consultation or implementing desired change;
 - to fulfil the requirements of the Act

13. Avoiding unreasonable/unnecessary delays

- 13.1 The parties are committed to ensuring that delays do not occur in implementing change due to any perceptions of consultation as an endless process without decisions being made and implemented. The following guidelines should be used to avoid any log-jams or disagreement:
- set out a draft time line at the start of the consultation process, identifying key target dates for activities such as exchanging information, starting consultation, completing

negotiations, making concrete decisions, starting implementation of decisions, monitoring implementation progress etc;

- avoid making progress in one area conditional on progress in another, unless they are explicitly linked and dependent on each other;
- always fix a delivery date for any action point in the overall consultation process - then honour the agreed delivery dates;
- refer an issue to LANPAG or the appropriate IR process if unable to progress it locally.

14. Dealing with unexpected circumstances

- 14.1 It is recognised that some change and associated decisions need to be made in an expeditious and timely fashion, in order to respond effectively to unexpected circumstances. Any such circumstances should be clearly set out at the information stage and compromise may be necessary on some of the rigour envisaged in this agreement. All employee representatives should be informed of such circumstances at the earliest possible opportunity.

15. Commitment to delivery of agreed courses of action

- 15.1 Where the parties agree on a particular course of action, through application of consultation processes set out in this agreement, all parties will commit fully to the pursuit and full implementation of any such courses of action.

16. Dispute Resolution

- 16.1 Disputes between management and employees' representatives regarding:
- (a) instances where management do not communicate information or undertake consultation;
 - (b) instances where management discloses information to employees with the express proviso not to disclose the information to a third party due to its confidential nature;
 - (c) instances where an employees' representative to the information and consultation arrangement discloses information which in the legitimate interest to the local authority has been expressly provided to him or her in confidence, to employees and third parties not bound by an obligation of confidentiality will be referred to LANPAG for determination. Should LANPAG not be in a position to resolve the dispute it may be referred to by management or the employee representative(s) to the Labour Court for determination, in accordance with Section 15 of the Act.

will be facilitated by management.

Employees' representatives who perform their functions in accordance with this agreement shall not:

- be dismissed or suffer any unfavourable change in their conditions of employment or any unfair treatment as a result of their status as employees' representatives and reasonable involvement in such activities;
- suffer any other action prejudicial to their employment because of their status or reasonable activities as employees' representatives.

- 17.2 The time and/or training required are likely to be proportional to the level of change under contemplation. Disputes under this section will initially be dealt with through LANPAG, and if unresolved at this level an employee representative may present their case to Right Commissioner in accordance with Schedule 3 of the Act. An annual budget through LANPAG will be identified to support employee representative activities under this agreement.

17. Facilities for employees' representatives

- 17.1 It is acknowledged that employees' representatives require sufficient time and facilities to meaningfully engage in consultation processes. Reasonable time off work for attendance of employees' representatives at information and consultation meetings and related activities

18. Traditional IR negotiation

- 18.1 Collective bargaining is the process by which employers and recognised trade unions seek to reach agreement through negotiation, on issues such as pay and terms and conditions of employment. It is quite different from consultation where the responsibility for decision making remains with management. While it is expected that well implemented information and consultation procedures should support and strengthen existing IR processes, the existing processes and structures for addressing collective bargaining issues remain unaltered by the Directive and the Act, and as agreed within the protocol Handling Significant Change Through Partnership.

19. Agreement duration and review

- 19.1 A copy of this agreement will be circulated to all employees covered by the agreement.
- 19.2 This agreement will operate initially for a period of two years from the date of signing this agreement, after which the agreement will be reviewed.
- 19.3 A review of this agreement and its operation will be carried out by the parties at the end of two years, with a view to agreeing and implementing any necessary improvements, and establishing a (revised) agreement for as long as the parties maintain the agreement in force.
- 19.4 In the event of any unresolved disagreement under these arrangements either party may refer the disagreement to the Labour Court for determination, in accordance with Section 15 of The Act.

20. Endorsement

- 20.1 This document, which in accordance with pre-existing information and consultation arrangements, establishes the:
- (a) subjects for information and consultation
 - (b) method of how information is to be provided
 - (c) method by which consultation will be conducted.

This document was agreed by the following parties on the 20th September 2006

Chris Gavigan
Assistant Chief Executive
LGMSB (Joint Chair)

Terry O'Niadh
Manager, North Tipperary
County Council

Joe Byrne
Regional Secretary,
UCATT

Paul Dunne
Assistant Chief Executive,
LGMSB

Michael McLoone
Manager,
Donegal County Council

Dennis Curtin
SIPTU

Ned Gleeson
Manager,
Limerick County Council

Norah Mason
Human Resource Executive
LGMSB

Paddy Coughlan
Chairman, Local Authority
Craft Group of Unions

Frank Kelly
Head of Human Resources
Dublin City Council

Matt Merrigan
National Industrial Secretary
SIPTU (Joint Chair)

Tony Mansfield
ATGWU

Aidan Kinch
Department of Environment,
Heritage & Local Government

Brian Byrd
SIPTU

Michael McCabe
IMPACT

Ned O'Connor
Manager, South Tipperary
County Council

Peter Nolan
National Secretary
Local Government Division,
IMPACT

Michael McGinty
IMPACT

Appendix 1

Principles of a good practice approach to information and consultation

- Recognise that the key to more effective informing and consulting lies not so much in the bundle of practices that are adopted as in the context, manner and spirit in which they are introduced and progressed.
- Foster a culture of information sharing, joint problem solving and consultation in the organisation. Identify 'champions' who will advocate this approach. Ensure that all managers in the organisation have the necessary skills to inform and consult with employees and their representatives
- Ensure that employee representatives have the skills necessary to engage in information and consultation activities on behalf of the organisation's staff.
- Ensure that information and consultation arrangements are built on existing practices, not in addition to them, and that the arrangements are aligned with the objectives of the organisation's HR and industrial relations approaches [and as agreed within LANPAG].
- Align information and consultation activities with the organisation's strategy and business plan.
- Understand that information and consultation arrangements evolve as trust grows, and allow room for experimentation and innovation.
- Adhere to the spirit of the Directive, which is to ensure employees receive the information to which they are entitled, and to implement arrangements that enable information and consultation to improve decision-making and organisational performance.
- Recognise that there is no one model of good practice and that the key is to develop and customise practical arrangements that meet the needs and culture of the organisation and its employees.
- Adopt benchmarks of good practice when developing an information and consultation strategy. This will assist the organisation to measure the impact of information & consultation on its performance and profitability.
- Approach the implementation of the Directive with a commitment to openness and transparency.
- Be mindful of the need for confidentiality in today's competitive environment.

Extract from NCPP "EU Directive on Information & Consultation: All you need to know" 2004

Appendix 2

Direct and Indirect

Direct information sharing

Written Methods

- Company handbook
- Employee handbook
- Organisational newsletter
- Employee briefings
- Bulletin boards
- Notice boards
- Memos and information notices
- Annual Reports
- Staff circulars
- Quarterly business updates

Electronic Methods

- Email
- Audio-conferencing (telephone)
- Web-based conferencing
- Video conferencing
- Intranet / Internet postings
- Databases
- Web casts

Face-to-face methods

- Employee briefings- individuals
- Team briefings- team, business unit, department
- Large scale staff meeting - interdepartmental, organisational wide
- Breakfast briefings
- Working lunches
- Management chain briefings
- Information cascades
- Shop floor briefings

Direct Consultation

Individual consultation

- Performance Reviews
- Training & Development Reviews
- Employee appraisal / 360- degree systems
- One-to-one meetings
- Employee surveys / attitude surveys
- Suggestion boxes

Group consultation

- Temporary Groups - time limited and issue specific i.e. partnership working groups, project groups, task forces or focus groups
- Permanent Groups - e.g. Partnership committees , or others that discuss work related issues on an on-going basis

Indirect information

- Industrial Relations Structures and Agreements
- Partnership-style arrangements
- European Works Councils
- Occupational Health and Safety
- Collective Redundancies
- Mergers and Acquisitions
- Pension Trustees

Indirect consultation

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