



Circular on the Agreement regarding

Cooperation and Joint Consultation Committees in State Sector Enterprises and Institutions

2005

Circular of 29 April 2005

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

(For all Ministries and Agencies, etc.)

General notes

The Ministry of Finance and the Association of Danish State Employees' Organisations, the Association of Public Servant Trade Unions, the Confederation of Professional Associations, the Association of Danish Teachers' Organisations and the Association of Danish Contractual Employees' Organisations have entered into the attached Agreement regarding Cooperation and Joint Consultation Committees in State Sector Enterprises and Institutions.

The Agreement is a revised and up-dated version of the cooperation agreement of 29 May 2002. The Agreement implements 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. Similarly, the EU framework agreement of 8 October 2004 on work-related stress is implemented in the Agreement.

Furthermore, the framework agreements of 10 June 1999 on extended employee participation in state sector institutions and on the organisation of health and safety work in state sector institutions, respectively, have been implemented in the Agreement.

Explanatory notes on individual provisions of the Agreement

Re 4. Participation in the establishment of guidelines/principles

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.

Re 5. (3) Budget and Appropriation Act allocations

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 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, competence development and special holidays.

Re 5 (5) Personnel policy

In connection with the joint consultation committee's discussions of gender equality and the prevention of direct and indirect discrimination, reference is made to Consolidation Act no. 756 of 21 August 2003 on equal pay for men and women, to Consolidation Act no. 1527 of 19 December 2004 on gender equality as well as to Consolidation Act no. 626 of 29 September 1987 on prohibition of discrimination on the basis of race, etc.

Re 6. Establishment of a joint consultation committee

The concept of "workplaces with an independent management function" requires a more detailed assessment of the parties on the individual institution's joint consultation committee. 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 cooperation 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.

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

Entering into local agreements on changing the organisation of the work environment effort is a deviation from the Executive Order of the Ministry of Employment on the health and safety activities of enterprises. The Executive Order authorises such a deviation provided an agreement to this effect has been entered into between the employee and employers' organisations, and also provided an agreement to this effect has been entered into at the individual workplace between management and staff.

Re 18. Commencement

The Agreement shall take effect from the time it is entered into. The Agreement shall at the same time repeal Ministry of Finance Circular no. 9606 of 29 May 2002 on the agreement regarding cooperation and joint consultation committees in state sector enterprises and institutions (State Employer's Authority no. 010-02). Furthermore, the Agreement shall repeal Ministry of Finance Circular no. 87 of 10 June 1999 on the framework agreement regarding extended employee participation in state sector institutions and on the framework agreement regarding the organisation of health and safety work in state sector institutions (Ministry of Finance no. 026-99).

Ministry of Finance, the State Employer's Authority

29 April 2005

For the Minister
by Order
Jan Olsen

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

1. Objective

The objective of this Agreement is:

1. to establish a framework for cooperation between management and staff with a view to involving staff in the work on the goals and strategy of the workplace,
2. to establish a personnel policy framework that will foster competence development and generate an inclination and motivation to fulfil the targets of the workplace,
3. to contribute to creating optimum working conditions and a good work environment.

The joint consultation committee must develop cooperation at the entire workplace to enable individual staff members to impact on their own work situation and thus contribute to the development of the workplace

The cooperation on the joint consultation committee must supplement and sustain the general day-to-day cooperation between management and staff.

2. Framework for the work of the joint consultation committee

The Cooperation Agreement shall establish the framework within which management and staff are to cooperate on working and personnel matters. The tasks of the joint consultation committee relate to tasks that are subject to the employer's managerial right.

The Agreement sets out how the joint consultation committee is to inform, discuss and establish guidelines for working and personnel matters.

It is the responsibility of management that the workplace develops and fulfils the demands and expectations of the surrounding world. Management and staff must cooperate on the implementation of the strategy and goals of the workplace. 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.

It is a precondition of the cooperation that management is performed in dialogue with staff in a motivating, developing and up-to-date manner, and that staff contribute actively to forward-looking cooperation on the development of the workplace.

It is a precondition of the Agreement that the individual joint consultation committees relate to the provisions of the Agreement in a proactive manner and that they fulfil the provisions.

In the cooperation, both management and staff must comply with current legislation and administrative provisions, agreements concluded under the legislation pertaining to civil servants as well as collective agreements.

3 (1). Information and discussion on the joint consultation committee

On the joint consultation committee, mutual information is to be provided, and discussions are to take place regarding 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 provide information on:

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, especially 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 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 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 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 written and oral information on the work of the joint consultation committee.

(6). The joint consultation committee's discussions

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

4. Establishment of guidelines/principles

The joint consultation committee may lay down guidelines or principles for the working and staff conditions of the workplace in order to secure the cooperation of staff for the most expedient planning of day-to-day work.

When establishing guidelines, it must be endeavoured to delegate responsibility and powers to individual staff members or to groups of staff.

The establishment of guidelines shall be limited to the remit and competence of management. The management must therefore state what limits apply to the managerial competence on questions regarding specific matters.

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.

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

If one of the parties so wishes, consultations regarding the establishment of guidelines must be initiated as soon as possible.

All guidelines must be drawn up in writing. They shall be binding on both parties that are under an obligation to utilise them in specific cases.

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.

5. (1) Special work areas for the joint consultation committee

The joint consultation committee shall consider the following subjects:

1. goals, strategies and performance contracts,
2. budget and Appropriation Act allocations,
3. rationalisation and restructuring projects as well as projects that imply competitive tendering, contracting out and outsourcing,
4. personnel policy,
5. competence development,
6. jobs on special terms,
7. the psychological work environment, including work-related stress.

(2). Goals, strategies and performance contracts

The joint consultation committee must be involved in the work on the goals and strategies of the institution in order to include staff in the deliberations to make the institution work in a quality-conscious and efficient manner. In this connection, the joint consultation committee must discuss the correlation between the institution's (attainment) targets/strategies and personnel policy.

If the institution enters into a performance contract, the management must inform the joint consultation committee of the contents of the contract, including the work-related, development and personnel policy goals. Any consequences of the performance contract for the working and staff conditions of the institution must enter into the joint consultation committee's discussion of the implementation of the contract.

The joint cooperation committee shall be briefed on the fulfilment of the attainment targets on a regular basis.

If the director general of the institution enters into a performance-related pay contract, the management must inform the joint consultation committee of the parts of the contract that relate to the performance of the institution.

(3). Budget and Appropriation Act allocations

The joint consultation committee must establish guidelines for the committee's discussions of the institution's budget and Appropriation Act allocations and for discussion of the principles governing the application of the appropriations.

In particular, the joint consultation committee must assess the consequences for the working and staff conditions in connection with major changes to the performance requirements and financial framework of the institution.

(4). Rationalisation and restructuring projects

The joint consultation committee must discuss the consequences of major rationalisation and restructuring projects, including competitive tendering, contracting out and outsourcing of tasks as well as technology projects. The following matters must be subject to discussion: finances, organisation of work, staff requirements, competence development, technology and the work environment.

To the extent necessary, the joint consultation committee must establish guidelines for the participation of employee representatives in working and project groups, etc.

To the extent necessary, the joint consultation committee must establish guidelines for the access of staff to existing documentation regarding the (technology) projects.

The joint consultation committee must clarify the need for competence development and transfer in connection with major rationalisation and restructuring as well as specific technology projects, and guidelines must be established for the implementation of this.

(5). Personnel policy

The joint consultation committee must discuss the development of a personnel policy that fosters job and competence development, flexibility and diversity. Through the personnel policy, the joint consultation committee must contribute to fostering an attractive workplace as well as motivation to meet the goals of the institution.

In connection with the development of a personnel policy, the joint consultation committee must make an effort to achieve actual diversity among staff and managers, and thereby promote development and innovation.

Through the personnel policy, the joint consultation committee must prevent direct and indirect discrimination, thus enabling the workplace to meet the demands of staff for an

attractive workplace. In this connection, the joint consultation committee must discuss the institution's policy regarding leave of absence.

The development of the personnel policy must contribute to giving all staff, irrespective of gender, ethnic origin, colour, race, religion, disability, age and sexual orientation, the same real opportunities of employment, training, and promotion as well as working conditions in general.

The joint consultation committee must discuss gender equality issues and ensure that gender equality becomes an integral part of the institution's personnel policy. In this connection, the joint consultation committee must make an effort to ensure a work climate free of any undesirable behaviour of a sexual nature as well as other behaviour that offends against the dignity of men and women at the workplace. The joint consultation committee must, furthermore, endeavour to prevent discrimination of any member of staff who lodges a complaint, or of any member of staff who wishes to testify, or of witnesses in case of a complaint.

When establishing the institution's personnel policy, due consideration must be given to the possibility of reconciling working life and private life.

(6). Competence development

The joint consultation committee must lay down principles and guidelines for the overall job and competence development effort at the institution on the basis of an assessment of the strategic goals and needs for strategic competence development of the workplace.

Furthermore, the joint consultation committee may discuss whether, with a view to the implementation of the competence strategy, there is a need for development plans for departments, teams, staff groups or the like and, to the extent necessary, principles and guidelines for these.

In connection with the establishment of principles and guidelines, competence development and job development must be seen as a coherent whole.

Furthermore, the joint consultation committee must establish guidelines for the holding of staff development interviews and for the application of resources from the competence fund.

The joint consultation committee must, moreover, discuss the principles for the organisation of systematic educational planning and discuss the need for initiating development activities for all staff groups.

The joint consultation committee shall evaluate the competence development effort of the workplace on an annual basis.

(7). Jobs on special terms

The joint consultation committee must, on a regular basis, examine the opportunities of integrating groups that have difficulty in gaining a foothold on the labour market, among other things by making use of social and labour market policy schemes.

To the extent possible, the joint consultation committee must establish general guidelines for the design of jobs on special terms (job contents, training, staff development interviews, competence development, number of positions that may be filled on special terms, etc.) if it is decided to establish these jobs against the background of discussions on the joint consultation committee.

(8). Psychological work environment, including work-related stress

The joint consultation committee must establish guidelines for the overall effort of the workplace with respect to identifying, preventing and handling problems in relation to the incidence of work-related stress. The effort must be coordinated with the safety committee.

6 (1). 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 as well as deputies for these.

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.

If it is the wish of one of the parties, a technology committee, a competence development committee and/or a gender equality committee must be set up.

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.

7. Local agreements on the extension of employee participation

In order to develop cooperation locally, management and staff may enter into agreements on setting up a co-determination body instead of the joint consultation committee. In this connection, the provisions laid down in the Cooperation Agreement regarding contents, structure, and composition of the committee may be departed from.

An agreement on this must be concluded between the management and the representatives of the staff organisations entitled to take part in collective bargaining. The agreement may include the entire institution or parts of it. If the agreement only comprises parts of the institution, it must be clearly stated which parts of the institution are included in the agreement.

Agreements may be concluded regarding:

1. modes of co-determination that replace and extend existing cooperation that is subject to the provisions of the Cooperation Agreement,
2. modes of co-determination that combine extended cooperation with the tasks attended to by the internal safety organisation.

The agreement must as a minimum include provisions regarding the objective, contents and structure as well as revision and termination of co-determination. The agreement must, furthermore, comprise deliberations on the training of employee and management representatives as well as on information and communication.

The provisions of the Cooperation Agreement on training, the tasks of the joint consultation committee as well as the contents of co-determination shall be minimum provisions that may not be departed from in any restrictive direction.

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/the co-determination body and the safety committee.

Another organisation of the work environment effort shall require an agreement that must be concluded by the management and the representatives of the staff organisations entitled to take part in collective bargaining.

The agreement may include the entire institution or parts of the institution. If the agreement comprises only parts of the institution, it must be clearly stated which parts of the institution are included in the agreement.

An agreement on new organisation of the work environment effort shall not affect the attention to the tasks, functions, duties and rights at decentralised and central levels which, under the labour environment legislation, are assigned to the internal safety organisation.

The agreement must be drawn up in writing and be available to all employees at the institution.

The agreement must as a minimum contain the following elements:

1. a description of the institution's work environment policy and an action plan for ways in which to improve the work environment of the institution,
2. an indication of a procedure for the implementation of and follow up on the agreement at the institution,
3. an indication of how tasks and functions are attended to, including how supervisory staff and other employees participate in the work environment effort as well as a description of relevant activities, for example workplace assessments and safety rounds,
4. an indication of a procedure ensuring that every second year an evaluation is conducted of the institution's work environment effort and the impact of the agreement on this,
5. an indication of ways in which the agreement may be revised and terminated,
6. an overview of the organisation of the work environment effort agreed upon in the form of an organisation plan.

When co-decision modes are agreed upon according to which the cooperation and work environment areas are merged into one committee, steps must be taken to ensure that at least one supervisory member of staff and one health and safety representative of the internal safety organisation are represented on the combined committee.

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.

Members of the joint consultation committee shall be subject to the duty of confidentiality under the Public Administration Act.

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.

With respect to combined cooperation bodies which also attend to tasks that would otherwise be assigned to the safety committee, the conditions of employee representatives shall be determined by the provisions laid down in the Finance Ministry's circular on remuneration of safety representatives and others.

(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.

10. Protection of representatives of employees' organisations

All employee representatives on the joint consultation committee, on cooperation bodies set up under section 7 (co-determination bodies), 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 representation 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 organisations 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 reasoned 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 when the parties have signed it. The Agreement shall at the same time repeal:

1. circular of 29 May 2002 on the agreement regarding cooperation and joint consultation committees in state sector enterprises and institutions,
2. circular of 10 June 1999 on the framework agreement regarding extended employee participation in state sector institutions and on the framework agreement regarding the organisation of health and safety work in state sector 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 continue in force until it is replaced by a new Agreement, but no longer than up to a maximum of 12 months after termination.

Copenhagen 28 April 2005

Association of Danish State Employees' Organisations

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Association of Danish Teachers' Organisations

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Ministry of Finance

For the Minister

by Order

Jette Frederiksen