

GUIDELINES ON LOCAL AGREEMENTS 2020

LOCAL AGREEMENTS

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Foreword

The Standard Collective Agreement between FA and Finansforbundet contains a number of provisions which provide for - and in some cases require - entering a local agreement.

Over the years, it has become increasingly possible for companies to enter local agreements on a wide range of issues.

In the collective agreement negotiations in 2014, it was agreed to set up a working group that would define and list the agreements in the standard collective agreement that can be defined as local agreements and which will be concluded as written agreements in the future.

The working group was also to prepare a guide for the local parties in which the rules on written communication are further described and exemplified.

This guide has been prepared within this context. It is intended as a tool for both companies and the employee representatives who are responsible for concluding local agreements.

The guide describes the different types of agreements that can be concluded and contains suggestions for how the local agreements can be most appropriately structured.

Finally, the guide describes how the local agreements can be terminated, and FA and Finansforbundet's common code of good local negotiating practice is part of the guide.

To be clear, this is not a complete legal review of the issues that can arise when concluding, interpreting and terminating local agreements. The purpose is instead to provide an overview of the most common issues.

The guide has been updated to reflect the changes agreed at OK20.

What is a local agreement?

The legal definition of a local agreement is that it is an agreement on pay and working conditions concluded between an employer and a collective of employees. The local agreement is therefore a collective agreement in itself.

A local agreement usually supplements or complements the central collective agreement, i.e. the Standard Collective Agreement.

The working group agrees that it is possible to distinguish between 4 different types of local contractual relations in the Standard Collective Agreement.

1. Local agreements that can normally be terminated separately (e.g. local agreement on extended agreed working time in accordance with Section 7 of the Standard Collective Agreement).

A large proportion of the local agreements that have been and will be concluded are included in this category.

2. Local agreements that are tied to the Standard Collective Agreement and therefore cannot be terminated separately (e.g. agreement in accordance with Section 3 on increasing annual standard hours for IT employees or Section 50, Paragraph 2 on earning holiday time in hours).

This includes agreements that have systemic consequences and where it would therefore not be appropriate if they could be terminated with a three-month notice period.

3. Local agreements where there are no formal requirements and where the notice period depends on the circumstances (e.g. agreement in accordance with Section 22 on meetings/courses or Section 72 on development plans).

Local agreements on health insurance and pension schemes also fall into this category.

These are agreements where there are no formal requirements, as it is often set out e.g. in the company's employee manual or other documentation what they apply to.

4. Other agreements with other contractual parties (e.g. agreement on establishing a group collaboration committee in accordance with the rules in the cooperative agreements in the banking and mortgage area and the savings bank area).

Finally, there are a few examples of this type of agreement that are not concluded with the union representative but with another contractual party. No special formal requirements apply to this.

This guide mainly deals with the local agreements set out in points 1 and 2.

FA and Finansförbundet have prepared an overview of the 4 different types of local agreements that can or must be concluded in accordance with the Standard Collective Agreement.

How is a local agreement concluded?

As mentioned above, it is required that there is a "collective" of employees on the B side. The agreement must thus apply to plurality of employees and must be an expression of terms that were collectively negotiated. In the Standard Collective Agreement, it is expressly stated in several places who the contractual party on the B-side is, e.g. the union representative or head of the local union.

The contractual party on the A-side is the company, understood as the legal entity that is the employer of the employees in question. The company will usually be represented by the person(s) who can oblige the company to conclude such agreements in accordance with general power of attorney rules.

For example, this could be the HR Manager.

When the A-side and B-side have concluded the agreement, it is generally binding in accordance with its content.

Local agreements are concluded in writing, otherwise there may be uncertainty as to what has been agreed. In cases where the agreement is included in points 3 or 4 above, the content may be set out in, e.g. meeting minutes etc.

Even though the same formal requirements may not apply to the agreements included in points 3 or 4, the agreement will be an expression of a negotiated solution.

However, the agreements that FA and Finansforbundet have defined as "local agreement with separate termination" in the list in the appendix shall be concluded in accordance with the procedure set out below.

Content of local agreements

Local agreements may be concluded both on the topics directly stated in the Standard Collective Agreement and on other matters.

The Standard Collective Agreement contains some provisions which oblige the parties to conclude local agreements. For example, Section 12, Paragraph 3 of the Standard Collective Agreement requires that a local agreement be concluded on statistical information on time bank usage.

The Standard Collective Agreement also contains a number of provisions which provide for concluding local agreements – in some cases specific requirements have been set out for the content of the local agreement.

For example, this applies to Section 7 on extended agreed working hours, where the Standard Collective Agreement sets out the requirements that apply when entering a local agreement on extended agreed working hours.

In practice, local agreements are often concluded on:

- Flexitime and/or time bank
- On-call duty, call-in and consultation
- Terms for part-time students
- Organisation of working environment and cooperation structure in the financial sector
- Pension schemes and health insurance
- Mitigations
- Union representative structure

Local agreement with formal requirements should contain the following elements:

- Reason, including any reference to relevant provisions in the Standard Collective Agreement
- Effective date
- Which employees/groups of employees are covered by the agreement?
- What is the content of the agreement?
- How long will the agreement last?
- What is the notice period?
- Signatures

Termination of local agreements

If not otherwise provided for in the Standard Collective Agreement, the general rule is that local agreements can be terminated with a 3-month notice period.

However, there are examples of different rules in the Standard Collective Agreement in which local agreements must be terminated with a longer notice period. These include:

- Local agreement on extended agreed working hours, see Section 7, Paragraph 2 [6 months' notice]
- The cooperation agreement in the banking and mortgage area, Section 13 on other forms of cooperation [6 months' notice]
- Local agreements in accordance with the Framework Agreement on organisation of working environment and cooperation structure in the financial sector [4 months' notice]

Except in cases where local agreements are terminated as part of the expiration (and renewal) of the Standard Collective Agreement, only the local contractual parties can terminate the local agreement. This means that a local agreement concluded with the local union representative cannot be terminated by e.g. the local union or Finansforbundet, nor can FA terminate the agreement on behalf of the company.

In some cases – local agreements that terminate at the expiration of the Standard Collective Agreement - a local agreement can be considered to be so closely linked to the Standard Collective Agreement that it cannot be terminated separately, but shares the fate of the Standard Collective Agreement, or such that it may be terminated with a notice period, but can only lapse at the same time as the Standard Collective Agreement.

It depends on a specific assessment, partly based on the local agreement's duration and content, whether local agreements other than those in the list in the appendix are of such a nature.

Local agreements should be terminated in writing with the applicable notice period. The termination must be submitted to the party with which the agreement is concluded. Unless otherwise agreed, it is not necessary to send the notice to FA or Finansforbundet.

Local agreements' relationship to the Standard Collective Agreement

For all local agreements in this guide, it is assumed that they were concluded within the framework of the Standard Collective Agreement. If a local agreement is in conflict with the Standard Collective Agreement in one or more points, it may mean that the agreement does not come into force in accordance with its content. This is determined in accordance with general labour law rules.

Therefore, it may be a good idea to contact FA or Finansforbundet if there is any doubt as to whether the local agreement is compatible with the Standard Collective Agreement.

Overview of local agreements

As an appendix to this guide, FA and Finansforbundet have prepared an overview of the places in the Standard Collective Agreement where local agreements can or must be concluded. The overview is not an exhaustive list, as local agreements may be concluded on topics other than those set out in the overview.

Code of good local negotiation practice

It is desirable for the collective agreement to be expanded with local agreement where the parties agree and the collective agreement allows for it. Therefore, negotiation and conclusion of local agreements should take place in such a way that both parties are satisfied with the negotiations.

The purpose of the negotiations is to reach an agreement that both parties are satisfied with despite any conflicts of interest. This is best achieved by the parties having an open dialogue and conducting the negotiations in a positive and constructive manner. Therefore, FA and Finansforbundet encourage the local parties to base their approach on the following principles when negotiating local agreements:

- Set aside the necessary time for both parties to negotiate, including preparation, negotiation and dialogue with the support base
- Relevant materials should be exchanged with the counterparty as far in advance as possible. Data, figures and other statistics directly included in the negotiations are always exchanged with the counterparty before the negotiations
- Acknowledge each other's roles and respective interests
- Cooperate in daily life on the issues that will later be negotiated
- At the end of a negotiation, it should be summarised what was agreed and what is left for the next negotiation
- The final agreement/negotiation results should be in writing and signed by both parties
- Agree on when and how you will announce the agreement/negotiation results and stand by what was agreed

Appendix to guidelines on local agreements

Overview of collective local agreements in the Standard Collective Agreement

This appendix contains a list of the agreements in the collective agreement that must be in writing. It is shown in the list whether there is a local agreement that must be concluded, or whether there is a local agreement that can be concluded and only must be concluded if there is a need for it in the company.

The guide defines 4 different types of local agreements.

1 – Local agreements with separate termination

Standard Collective Agreement - Extended agreed working hours [Section 7]

A local agreement may be concluded on the possible placement of working hours at all times of day and day of the week.

Standard Collective Agreement – Fixed salary and independent work organisation [Section 8]

A local agreement may be concluded to allow for agreed fixed salary for select job functions/positions and a lower limit.

Standard Collective Agreement - Time bank [Section 12]

A local agreement must be concluded on time bank statistics. A local agreement may also be concluded on elements in the time bank and other terms for the time bank.

Standard Collective Agreement - Flextime [Section 13]

A local agreement may be concluded on extended opportunities for flexible working hours.

Standard Collective Agreement - Overtime [Section 18]

A local agreement may be concluded on the possibility of overtime for projects that are not covered by the ban on systematic overtime work.

Standard Collective Agreement - On-call time, call-in and consultation [Section 20]

A local agreement may be concluded on finance staff and service workers/technicians being covered by all or some of the rules for on-call time. In addition, a local agreement may be concluded on a higher maximum than 40/480 shifts/hours per year and the opportunity for greater flexibility.

Standard Collective Agreement - Temporary workers and students working part-time [Section 41]

A local agreement may be concluded on a number of employment terms for students, including placement of working hours.

Standard Collective Agreement - Call-in staff [Section 43]

A local agreement may be concluded on which areas and functions are covered by the provision on on-call staff.

Standard Collective Agreement - Agreement options for holidays [Section 50]

A local agreement may be concluded on the rules for changing/interrupting holidays, see the Danish Holiday Act, not applying to X number of employees.

Section 2 – Minutes – Working hours – Secure transport [Section 1]

A local agreement may be concluded on secure transport on Saturdays, Sundays and public holidays.

Section 3 – Salary – Agreement on salary packages

A local agreement may be concluded on salary packages that the employees are paid in accordance with.

Section 4 – Working hours – Framework agreement and telework [§ 9]

A local agreement may be concluded to allow for telework to be performed outside the company's premises.

Section 6 – Cooperation and elected representatives – Agreement on professional work – The union representative's duties [§ 2]

A local agreement may be concluded on the extent to which the union representative receives information on balances for flextime, additional work, overtime and transferred holidays.

Section 6 – Cooperation and elected representatives – Agreement on professional work – Election of union representatives [Section 5]

A local agreement may be concluded on the number of union representatives, their distribution in each department and term of office.

Section 6 – Cooperation and elected representatives – Agreement on professional work – Cooperation discussion [Section 9]

A local agreement must be concluded on how it will be ensured that the discussions are held.

Section 6 – Cooperation and elected representatives – Agreement on professional work – Union Staff Association / FTM [Section 11]

A local agreement may be concluded on one or more of the board members having the same right to freedom and protection as union representatives. In companies divided into areas, a local agreement may be concluded on election/appointment of area union representatives.

Section 6 – Cooperation and elected representatives – Agreement on professional work – Freedom of organisational work [Section 14]

A local agreement may be concluded on the extent to which the time outside of normal working hours used for consulting etc. is working time. This also applies in relation to union representatives with varying working hours.

Section 6 – Cooperation and elected representatives – Agreement on professional work – Agreement on health and safety organisation in the companies [Section 2]

A local agreement may be concluded on changed organisation of either the health and safety structure or the health and safety and cooperation structure.

2 – Local agreements that terminate at the expiry of the Standard Collective Agreement

Standard Collective Agreement – Length of working hours – annual standard [Section 3]

A local agreement may be concluded on raising IT employees' annual standard to 1924 hours as well as a local agreement on the handling of annual standards for shifts and part-time employees etc.

Standard Collective Agreement – Local salary pool [Section 26]

A local agreement may be concluded on salary principles and distribution of the salary pool.

Standard Collective Agreement - Agreement options for holidays [Section 50]

A local agreement may be concluded on holiday time being earned in hours and/or taken in hours.

Standard Collective Agreement – Dependants' leave [Section 74]

A local agreement may be concluded on choosing the holiday year as the reporting period.

Standard Collective Agreement – Transitory measures (Appendix 7a to Final Protocol 2020)

A local agreement must be concluded on

- Compensation for transition to fixed salary
- Compensation for transition to additional work
- Compensation for transition from seniority system

3 – Local agreements without formal requirements

Standard Collective Agreement – Special duties (Section 10)

A local agreement may be concluded on changed supplement rates for employees' participation in special duties of a marketing nature.

Standard Collective Agreement – Participation in meetings and course events (Section 22)

A local agreement may be concluded on how the company practises payment for participation in meetings and course events.

Standard Collective Agreement – The employee's development plan (Section 72)

A local agreement must be concluded on guidelines, including frequency and criteria, for interviews and development plans.

Section 3 – Salary – Minutes on pension schemes

A local agreement may be concluded on changed choice of supplier or establishment of a new pension scheme as well as organisation of pension work in the company.

Section 6 – Cooperation and elected representatives – Mitigations – Terms of resignation (Point 5c)

A local agreement may be concluded on choice of outplacement provider and content of the agreement with them.

4 - Other agreements

Section 6 – Cooperation and elected representatives – Cooperation committees in the banking area (Section 2) and the savings bank area (Section 5)

A local agreement may be concluded between the local parties on the establishment of a group cooperation committee.

Section 6 – Cooperation and elected representatives – Cooperation committees in the banking area (Section 13)

A local agreement may be concluded between the local parties on forms of cooperation other than the Standard Collective Agreement's cooperation committee.

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