



Llywodraeth Cymru  
Welsh Government

PUBLICATION

# Agricultural Advisory Panel meeting: 5 July 2021

Summary of the meeting held online due to Covid-19 restrictions.

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# Present

Chair – Dr Nerys Llewelyn Jones

Independents - Steve Hughson, Janatha Stout

Unite – Ivan Monckton

FUW – Darren Williams

NFU Cymru – Dylan Morgan (part-meeting), Will Prichard (part-meeting)

Panel Legal Adviser - Helen Snow

Welsh Government - Ryan Davies (Panel Manager), Sian Hughes

Secretariat – Dan Ricketts

## Apologies

Brian Troake (Unite)

## Item 1 – Introduction

Apologies have been received from Brian Troake (Unite). Dylan Morgan (NFU) was attending for the first hour of the meeting and Will Prichard would attend for the latter part.

## Item 2 – Approval of minutes from AAP 27 and outstanding actions

Some outstanding actions are on the agenda. There were also several pushed forward to the next meeting:

ACTION POINT 1 – Ryan Davies to distribute a draft student definition to all

members of the Panel.

**ACTION POINT 2** – Sian Hughes to investigate how the retrospection of the 2017 Order was communicated to the public.

**ACTION POINT 3** – The Panel to amend the Terms of Reference for both the full Panel and the Sub-Committee on Skills Development & Training then submit to Welsh Government for approval.

**ACTION POINT 4** – Ryan Davies to send the draft Annual Report to the Chair before circulation to the Panel for consideration.

The Panel suggested other organisations to consider who operate in a skills development field in order to map out what is available:

- Cambrian Training
- Landworkers Alliance

It was suggested they are invited as an observer to a future meeting in the instance where they could also inform the Panel as to how representative each organisation is within the sector.

**ACTION POINT 5** – Cambrian Training and the Landworkers' Alliance to be invited to a future meeting.

It was requested that all correspondence sent to Panel member is sent via the AAP Mailbox rather than individual email accounts. This was agreed – however meeting requests cannot be sent via this mailbox.

Microsoft Teams links to future meetings have been sent to the Panel – it was agreed these will be resent along with the agenda nearer the meeting.

## **Item 3 – Chair's update and update on the 2021**

# Order

The Chair updated the Panel on developments since the last meeting:

- A positive meeting has taken place with Welsh Government Legal Services (WGLS).
- The submission to WGLS answering their enquiries (as per AAP 27) was well received and had resulted in just two remaining areas of concern:
  1. The proposed job evaluation process to assess the grade of workers under the new structure

WGLS agreed in principle to the proposal, noting that it was not a “formal” job evaluation but more of a conversation between the employer and worker. This was subject to clear guidance being published at the same time as the Order comes into force – this may include a proforma to guide employers / workers through the job evaluation process. The guidance would need to be submitted to WGLS in advance for consideration.

Helen has drafted the guidance which will be circulated to the Panel before submission to WGLS.

**ACTION POINT 6 – Helen Snow to circulate the draft guidance on the job evaluation process to the Panel before submitting to Welsh Government Legal Services.**

2. The removal of the qualification schedules and the definition of “equivalent qualification”

In the current Order the Qualification Schedules are very clear which qualification relates to a particular grade. The proposed Order would remove the schedules and would require a discussion to take place between the employer

and the worker. WGLS state there is a lack of clarity as to what is meant by “equivalent qualification” and the proposal of issuing guidance on this matter does not sufficiently address the issue. They also question what happens if the employer and worker disagree? What is the dispute resolution mechanism? Ultimately it could progress to a UK Employment Tribunal – this would require a Justice Impact Assessment on the Order which is not currently undertaken.

The Panel thoroughly discussed this matter:

- It was a mammoth task to go through all of the qualifications in the Schedules (which are out of date) and add all new qualifications now available.
- Two exercises would need to be completed – one to update the Schedules and remove all the obsolete qualifications and the one to allocate the available qualifications to a specific grade.
- Could a third party be procured to undertake this work and assist the Panel? How would the qualifications be kept up to date as new courses become available all the time?
- LANTRA may have already done some work in this area and may have a list of current qualifications.
- The new grading structure goes beyond just qualifications as it is also about the experience of individuals within the industry and their roles and responsibilities.
- A query was raised as to whether all reference to equivalent qualifications could be removed on the basis all existing workers with past qualifications will already qualify for particular grades due to their experience within the industry. The qualification schedules only relate to new workers coming into farming and where entry onto the scale is with minimum qualifications

required for the minimum rate of pay for that particular grade. New entrants with qualifications are most likely to hold NVQ's, so the old qualifications will be irrelevant and can be removed.

- Technically, stating experience of three years at Grade A (for example) is not possible as Grade A will not exist until the new Order is made, but this is clearly not the intention of the Panel. The guidance regarding the Job Evaluation process will state that previous experience in agriculture under the old grading structure should be counted. This will ensure there is no ambiguity.
- Taking out the words “equivalent qualification” may affect those who come from abroad. It may also affect those who have previous experience in the industry but left and are now returning.
- Has any member of the Panel got any experience of a qualification being submitted that is not a NVQ with regards to the lower grades? It is important to discuss this proposal within the various representative organisations and undertake a SWOT Analysis (Strengths, Weaknesses, Opportunities, Threats).
- The Panel will need to demonstrate and provide evidence as to why the other qualifications in the schedules are no longer necessary - include any potential anomalies and possible workarounds

**ACTION POINT 7** – Details to be sent to Panel members to help explain to their membership bodies the issue regarding Qualifications / Schedules and the proposal to remove the definition of “equivalent qualification” and all qualifications except NVQ's from the Schedules.

**ACTION POINT 8** – All members to consider the proposal and undertake a SWOT Analysis to establish the benefits and the risks and the impacts on existing and/or new workers.

ACTION POINT 9 - Table agreed proposals outlining what they are, why they are acceptable and if there are any issues and potential workarounds.

ACTION POINT 10 – LANTRA to be contacted to enquire if there is an updated list of available qualifications.

ACTION POINT 11 – Helen Snow to consider whether proposed changes are “significant and substantial” which will require a further consultation period.

## **Item 4 – Legislative Changes and Amendments for the 2022 Order**

The current legislative changes in UK Employment Law will need to be taken into account during negotiations for the 2022 Order:

- The length of time employers are required to keep records to show National Minimum Wage compliance has increased from 3 years to 6 years (there is no provision in the Order at present with regards to record keeping for Agricultural Minimum Wage compliance – should one be included?)
- Calculation of Annual Leave entitlement – the current provisions do not take into account the calculation of leave for those who have worked less than 52 weeks especially with regards to those workers on “zero-hour” contracts

ACTION POINT 12 – Helen Snow to draft a paper regarding the legislative changes to be taken into account for the 2022 Order.

The position / proposal papers from both sides with regards to the 2022 Order need to contain the level of detail required by WGLS as per the submissions answering the question on the 2021 Order. If the proposals could be prepared in the table format it will save a lot of time going forward.



ACTION POINT 13 – Nerys Llewelyn Jones to circulate to all members the framework document to complete with regards to proposals for the 2022 Order

ACTION POINT 14 – Position papers for the 2022 Order to be submitted by 16 August 2021 before the Negotiations Meeting on Monday 6 & Tuesday 7 September

The intention is for a face-to-face meeting to take place but this may not be possible dependent on the restrictions in place at that time.

## Item 5 – Any other business

Darren raised a case regarding the payment of Agricultural Sick Pay under the Agricultural Wages Order. He will send a Case Study paper through for discussion at the next meeting.

If members are able can they have a look at the website to see what (if any) amendments need to be made to it:<https://gov.wales/agricultural-advisory-panel-wales>

## Item 6 – next meeting

Tuesday 27 July at 10.00am via Microsoft Teams.

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