



Llywodraeth Cymru  
Welsh Government

PUBLICATION

# Agricultural Advisory Panel meeting: 6 and 7 September 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 – Brian Troake, Ivan Monckton, Bridget Henderson

FUW – Darren Williams, Nick Fenwick (Day 2 only)

NFU Cymru – Will Prichard, Dylan Morgan

Panel Legal Adviser - Helen Snow

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

## Item 1 – Introduction

The Chair welcomed everyone to the meeting. Apologies were received on day one from Nick Fenwick (FUW) as he could only attend the second day.

## Item 2 – Update on 2021 Order

The Chair gave an update on the current position of the 2021 AWO. Although the Panel did not meet in August, a meeting with Qualifications Wales was useful in determining the relationship between further educational qualifications and the AWO.

Helen Snow had reworded the relevant sections within the order and circulated to members for their approval. Welsh Government Legal Services seemed *provisionally* content however this was not a formal decision.

A conversation was held around how employers slot employees into the right grade and there would need to be a degree of cross referencing. It was also

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asked what would happen if an employee had a higher grade qualification not relevant to the role – for example a job on a dairy farm with a qualification in edible horticulture. Helen Snow confirmed the key word would be relevance. Darren Williams suggested the comma within the wording of the definitions should be replaced with ‘must be’.

As an example: - “qualification **must be** relevant to their role in agriculture”

**ACTION POINT 1** – Helen Snow to redraft wording of the 2021 Order to reflect the discussions regarding qualifications.

A discussion was held concerning the requirement to re-consult on any re-wording as this was a fundamental change. Concern was raised that this would push back the coming into force date, which would delay any pay reward for agricultural workers. Publicity would also have to be addressed to attract as many responses as possible.

The Chair stated that if the consultation is published at the end of September for four weeks, it would be unlikely to see any order coming into force by January 2022 and in reality was more likely to be March 2022. Any retrospective actions would also require approval from the Counsel General.

At this point there were two options:

- Consult on outstanding issues; or,
- Consult the outstanding issues within the 2022 AWO consultation

The farming unions were happy with retrospection to a point, however there was no agreement that any retrospection should be open ended, putting farming businesses in a position where they may not be able to fund the back pay.

Brian Troake raised the point whether the Panel forego the 2021 AWO and concentrate on the 2022 order. Consultation on both will cause confusion, however morally this wouldn't be fair on agricultural workers because of the

delays.

Dylan Morgan made the point that many agricultural businesses pay above the minimum wage in any case. Members were asked if there was any evidence to bring forward to prove this statement. Brian Troake countered this stating Unite deal with a number of cases where pay or holiday entitlement does not meet the minimum standards.

Helen Snow stated a determination will need to be made based on necessary, fair and in the public interest test. The Counsel General will require to make a calling weighing up both sides – the benefit to the workers for retrospection against the impact to the business.

Discussions were held surrounding the need to consult further and the views that a new subject cannot just be added. The Chair confirmed nothing new was being added; evidence would be needed for the Counsel General to make a balanced decision. Ivan Monckton asked if the panel could get a steer from the Counsel General as to his views on retrospection. Sian Hughes advised it would be unlikely to get an immediate response as we would need to be guided by Legal Services.

Further discussions were had in relation to timings of bring the regulations to fruition. Concerns were raised that if the 2021 Order was not brought forward by March 2022, the 2022 Order was unlikely to come into force until July 2022 – this again would create an issue surrounding retrospection.

Darren Williams commented if the Panel have given the recommendation to Welsh Government and get an 'OK' in principle, Welsh Government could issue a press release informing businesses of the new proposed wage rates. Sian Hughes confirmed Welsh Government cannot make any statement until the Minister has agreed to the recommendation – officials cannot pre-empt what the Minister is minded to do.

## Unite's Position

- There is a need to continue with the 2021 Order.
- There is no evidence put forward which would suggest farming businesses would be put out of business due to retrospection. The state of the labour market in the farming unions' paper was not felt to be accurate.
- Farming unions were asked to communicate to the industry to plan for retrospective pay increases.
- Grade D to F seems to offer a 1p pay reduction
- Unite can't see that this is a good deal.

## Farming Union Position

- Proceed with the 2021 Order without retrospection as this will be too costly to businesses.
- Neither the NFU nor FUW are able to communicate to the membership if there is no decision made. A lot of time has been given to the 2021 Order and this needs to be pushed over the line. There was also concern that retrospection could be legally challenged.

## Item 3 – Qualification Wales

Wayne Scoburg from Welsh Government's Qualifications team gave a presentation on how the qualifications system works in Wales and how the Welsh Government interact with Qualifications Wales.

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## Item 4 – Continued Discussions on the 2021 Order

The Chair put forward two proposals:

1. Continue with 2021 Order with retrospection; and
2. Continue with 2021 Order without retrospection

**The Panel voted for Option 1 by 4 votes to 2:**

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**For**

**Against**

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Ivan Monckton

Will Prichard

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Brian Troake

Darren Williams

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Steve Hughson

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Janatha Stout

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Steve Hughson felt going back on the 2021 Order would be a retrograde step. However it would be for the Counsel General to make the call.

Discussions were held on how the details of this would be communicated to the industry and it was stated the need for a communications plan.

Dylan Morgan felt it was not for the Farming Unions to make any announcement at this time as it would look like there was a force of hand taking place. However the NFU would be happy to help share the new rates if an announcement was made.

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The Chair confirmed work would now continue to take place in bringing forward the 2021 Order with the request for retrospection for wage rates only. The necessary lines can be added to the consultation as there was a duty on the Panel to be transparent. There was also opportunity to broadcast this message through Farming Connect webinars.

The meeting was adjourned and would reconvene tomorrow morning giving members time to read through position papers regarding the 2022 Order submitted by both sides.

## **Day Two: Item 5 – Employers / Employees Presentations for the Agricultural Wages Order 2022**

Unite presented their paper to the Panel which concentrated on the Real Living Wage.

Their proposal for the wage rates was £9.50 per hour as the minimum wage rate whilst maintaining the differentials from the 2021 Order.

NFU / FUW also presented their paper to the Panel and proposed the 2022 Order rises in line with proposed Government changes to the National Minimum Wage / National Living Wage. Grades above the National Minimum Wage / National Living Wage will maintain the differentials negotiated for 2021.

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## Item 6 – Discussions on the 2022 Agricultural Wages Order

Sian Hughes raised concerns that may be brought up the Welsh Government's economists regarding the lack of evidence provided on how differentials are decided on. This is something picked up every year. The Panel does have the ability to use external experts to help evidence decisions. The Minister cannot make a decision based on little or no evidence.

She also confirmed the way in which Welsh Government economists look at data. Consumer Price Inflation (CPI) is used as the headline inflation measure with the Retail Price Index (RPI) used in certain specific circumstances and a GDP deflator series is then used if they want a broader measure on inflation, which includes Government spending, not just household expenditure. If the Panel propose a wage increase above the CPI a justification will be need to be provided.

### Accommodation Offset Allowance

Nick Fenwick put forward the view that the provision of housing for workers was a disincentive due to the amount of the allowance. Why would you provide a house for £1.50 per day when you could rent it out on Air B&B for £65? Brian Troake reminded the Panel that Geldards had provided clarity on this matter last year and the provision of tied accommodation is not a contractual obligation. It was also stated tied accommodation is solely for the use of agricultural labour and proof needs to be given if this accommodation is surplus to requirements.

## Proposals

Two proposals were put forward:

### Proposal 1 (proposed by NFU / FUW)

- The proposals for the 2021 Order are maintained for 2022 along with the grade differentials as set out in the 2021 Order:
- Grades A1 to A3 would fall within the National Minimum Wage rates;
- Grade A4 National Living Wage
- Apprentices as the National Minimum Wage
- Other grades to remain as the 2021 order and maintain differentials

### Proposal 2 (proposed by Unite the Union)

- The grade differentials as set out in the 2021 Order are maintained for 2022
- Instead of using the National Minimum Wage / National Living Wage rates as a base figure a rate of £9.50 per hour is proposed – this is a step in the right direction and is a halfway house between the National Minimum Wage / National Living Wage and the Real Living Wage

The Panel voted on the proposals:

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Proposal One	Proposal Two
Will Pritchard	Ivan Monckton
Darren Williams	Brian Troake

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Steve Hughson

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Janatha Stout

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The motion was carried that for the 2022 Wages Order Proposal 1 would be used.

## Item 7 - next meeting

It was requested the next meeting was undertaken face-to-face for those who felt comfortable in doing so at the Royal Welsh Showground.

ACTION POINT 2 – Ryan Davies to send a Doodle Poll to all Panel members to regarding a date for the next meeting.

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